Authority. In the form advocated by Vice President Rockefeller, this agency would direct investment into increasing domestic production as well as reducing demand.

Other signs of awareness of the conservation potential are gradually appearing in both public and private sectors. New York's Metropolitan Transportation Authority has started pilot runs of two special subway cars equipped with experimental flywheel units that consume one-third less energy than the normal cars.

The Energy Research and Development Administration recently agreed to underwrite a program in Pasadena, Calif., to design a "total energy system" for a downtown redevelopment area. This would use the waste heat generated in producing the area's electricity to supply domestic hot water and space heating and cooling—a system already well-developed in Sweden. Two-thirds of the potential energy fed into power plants across this country is now thrown off as waste heat.

Private industries are rapidly following up Government-sponsored pilot projects to burn garbage for energy, thus relieving two increasingly burdensome problems at the same time—urban waste disposal and energy requirements.

The United States was recently rated lowest in energy conservation among the eighteen members of the International Energy Agency. This country *wasted* as much energy last year as two-thirds of the world's population *consumed*. Though the Federal Government has a central role to play in encouraging conservation techniques and technologies, this is one aspect of the energy crisis where the most important initiatives lie with individual business concerns, homebuilders, motorists and every ordinary citizen.

CORRECTION OF THE RECORD

Mr. STEVENSON. Mr. President, in the RECORD of March 4, on page S2854, there appears a statement entitled "The Sinai Accord." The statement is mistakenly attributed to the distinguished senior Senator from Pennsylvania (Mr. HUGH SCOTT). I am the author of that statement, and I have asked that the error be corrected in the permanent RECORD. I regret any inconvenience to my colleague that may result from this printing error.

The PRESIDING OFFICER. The correction will be made.

RECESS

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate stand in recess until the hour of 12 o'clock noon.

There being no objection, the Senate at 10:28 a.m., recessed until 12 meridian; whereupon, the Senate reassembled at 12 meridian, when called to order by the Presiding Officer (Mr. FORD).

CONCLUSION OF ROUTINE MORNING BUSINESS

The PRESIDING OFFICER. Is there further morning business? If not, morning business is closed.

FEDERAL EMPLOYEES' POLITICAL ACTIVITIES ACT OF 1975

The PRESIDING OFFICER. Under the previous order, the Senate will now resume consideration of the unfinished business, H.R. 8617, which the clerk will state by title.

The legislative clerk read as follows:

A bill (H.R. 8617) to restore to Federal civilian and Postal Service employees their rights to participate voluntarily, as private citizens, in the political processes of the Nation, to protect such employees from improper political solicitations, and for other purposes.

Mr. McGEE. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. McGEE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. McGEE. Mr. President, I yield to the Senator from Michigan.

The PRESIDING OFFICER. The Senator from Michigan is recognized.

Mr. GRIFFIN. Mr. President, since its enactment over 36 years ago, the Hatch Act has survived largely intact despite repeated court challenges and several congressional amendments. As early as 1947, the U.S. Supreme Court rejected a constitutional challenge to the Hatch Act in United Public Workers against Mitchell. As Mr. Justice Reed stated in the court opinion:

Congress may reasonably desire to limit party activity of federal employees so as to avoid a tendency toward a one-party system. 300 U.S. 75, 100 (1947).

Notwithstanding the Court's decision, critics of the act continued to challenge its provisions prohibiting Federal employees from taking an active part in political activities. The Hatch Act was amended twice, in 1950 and again in 1962, before it was brought once more to the Supreme Court in 1973. The Court, in U.S. Civil Service Commission against the National Association of Letter Carriers, reaffirmed the Mitchell case and again held that the prohibitions against political activities by Federal employees were indeed constitutional. In a 6 to 3 decision, Mr. Justice White, speaking for the majority, further stated that:

A major thesis of the Hatch Act is that to serve this great end of Government—the impartial execution of the laws—it is essential that federal employees, for example, not take formal positions in political parties, not undertake to play substantial roles in partisan political campaigns, and not run for office on partisan political tickets. Forbidding activities like these will reduce the hazards to fair and effective government. 413 U.S. 548.

It was thought that the landmark Letter Carriers opinion of the Supreme Court would cool the debate over certain political prohibitions in the act. However, the following year, State and local employees were exempted from most of the act's prohibitions by an amendment included in the Federal Election Campaign Act of 1974.

Today, only 3 years after the Letter Carriers decision, we have before us a piece of legislation which would in effect repeal an act which has for years withstood the scrutiny of Congress and the Supreme Court, and which thus promoted development of a professional, nonpartisan civil service corps. This bill would strike out important provisions of the existing act, including section 7324 (a) (2) which prohibits executive agency employees from taking "an active part in political management or in political campaigns"; and would replace such provisions with specific prohibitions against: First, using official authority to affect an election or influence an individual's vote or political contribution; second, soliciting of employee political contributions by the employee's superior; and third, soliciting political contributions in any Federal room or building used in the discharge of duties. H.R. 8617 would also establish a new board, in addition to the Civil Service Commission, to adjudicate alleged violations and allow leave without pay and accrued annual leave options for Federal employees who are candidates for political office.

While the prohibitions in H.R. 8617 certainly are the minimum necessary protections for Federal employees from widespread political pressure, it is important to note that all the other activities currently prohibited under the Hatch Act would be permitted if this bill were to become law. Thus, under H.R. 8617, Federal employees could, among other things, run for political office, manage election campaigns, solicit votes, participate in fund raising, and endorse candidates.

The question we must ask ourselves, I think, is can we risk inviting a return to the spoils system by gutting the Hatch Act—which I suggest is the effect of the pending bill? Judging from the arguments presented by proponents of H.R. 8617, I strongly suggest it is not worth the risk.

Supporters of the bill claim, for example, that the Hatch Act is overbroad and infringes on a Federal employee's constitutional rights. It is argued that the Hatch Act is vague and out of date and that circumstances have changed making prohibitions against private political activities unnecessary. It is further claimed that the bill would require stronger employee protection. I would like to take some of these arguments and answer them.

Let us take the most frequently heard argument first—that the act infringes upon a Federal employee's political rights to such an extent as to render him a second-class citizen. As indicated earlier, the Supreme Court has ruled that there is no constitutional difficulty with the present Hatch Act. Nowhere in the Constitution does anyone find an inherent right to be a Federal employee and to be a political activist. Unlike the private employee, the Federal employee's salary is paid for by the public with the expectation that he or she will be impartial in the execution of the law and of administrative programs providing basic services to the general public.

Indeed, the argument against the Hatch Act can be reversed by recognizing the right of a Federal employee to be free from political coercion by his or her coworkers and superiors. Since the coercive power of coworkers and superiors is derived from the Government itself,

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the Hatch Act is not restricting Federal employees' rights but actually restraining the coercive power of the Government itself.

Besides, the Hatch Act is not a bar to all political activity. Currently, a Federal employee may vote, express opinions, make financial contributions to a political party, participate in nonpartisan activities, be a member of a political party, be an independent candidate in a nonpartisan election and in some cases even in a partisan election, sign petitions, be politically active in nonpartisan referendum, and various other activities. So, Federal employees do have a considerable degree of flexibility. The prohibitions against certain other political activities are there not to penalize a Federal employee but to insure that the integrity, efficiency, and neutrality of the employee and the agency he works for are maintained in carrying out public responsibilities.

Thus, this argument of unnecessary infringement does not seem to justify removing important Hatch Act restrictions on certain political activities as proposed under H.R. 8617. And these restrictions cannot be limited to political activities occurring during working hours. Political coercion does not end when the employee leaves his office. As Justice Reed stated in the Mitchell decision:

> The influence of political activity by government employees, if evil in its effects on the service, the employees, or people dealing with them, is hardly less so because the activity takes place after hours. *Mitchell*, supra at 95.

As far as arguments that the act is vague as to what activities are prohibited, I would cite Mr. Justice White in the Letter Carriers opinion in which he stated:

> They (the prohibitions) are set out in terms that the ordinary person exercising ordinary common sense can sufficiently understand and comply with, without sacrifice to the public interest.

The prohibited activities are specified in regulations promulgated by the Civil Service Commission. The Commission has also established a procedure so that an individual may address any questions about the meaning of the law to the Commission for clarification.

In response to the argument that the law is out of date, my question is, has human nature changed so much in 36 years that there is no longer any need to protect against a politicization of the civil service? A brief look at recent scandals and the low public opinion of political figures should answer that question.

As for the argument that times have changed and Federal employees are professional people less subject to oldtime political coercion, I point to the Survey Research Center's figures indicating that at least 1.5 percent of all Federal employees were asked to contribute money to political campaigns by their superiors, and 1.2 percent were requested to participate in prohibited political activities. If this number of violations are occurring while the Hatch Act is in effect, think how many more violations will occur if the less restrictive H.R. 8617 is passed. I agree that times have changed, but since 1939 the number of employees has tripled and the budget is 34 times larger. Changing circumstances indicate that we need the Hatch Act even more now than in the past.

Finally, I cannot agree that H.R. 8617 would actually provide stronger employee protection by its specific prohibitions, the creation of a new board to adjudicate claims, and additional criminal penalties. How does the act prevent such a subtle act as indirect coercion. H.R. 8617 would not prevent a friend of a superior from soliciting political contributions from the superior's employees. Each employee would contribute out of fear that his superior might overlook his promotion upon learning of the employee's refusal to contribute.

How does the act deal with a situation where an employee campaigned against a candidate for public office who later becomes that employee's new boss? Is it not likely that the employee will have a difficult time working with his new boss?

In short, I do not find the arguments in favor of replacing the Hatch Act with H.R. 8617 provisions convincing. A weakening of the Hatch Act may appear to be an open invitation to widespread abuse. Furthermore, there has not been a large-scale movement on the part of Federal employees to weaken the act. In a recent poll conducted by the National Federation of Federal Employees, 89 percent of its members wanted to continue the act as it is. Mail from my Michigan constituents also overwhelmingly disapproves of H.R. 8617.

But, whether or not a widespread politicizing of federal employees occurs under H.R. 8617, it is important that it not even appear that partisan considerations enter into Federal administrative decisionmaking. There must be no hint of a conflict of interest if we are to maintain efficient and fair governmental administration. As Mr. Justice White so aptly stated in the Mitchell decision:

> It is not only important that the Government and its employees in fact avoid practicing political justice, but it is also critical that they appear to the public to be avoiding it, if confidence in the system of representative Government is not to be eroded to a disastrous extent.

There are other troublesome issues raised by H.R. 8617, such as the propriety of allowing a Federal employee seeking political office to remain connected with the government through allowances for collecting accrued annual leave and leave without pay. There is also a constitutional separation of powers question when an executive agency such as the Civil Service Commission must submit proposed implementing regulations to Congress for approval.

It seems rather ironic that we are now debating a bill that would allow and even encourage Federal employees to become political activists and possibly political officeholders when not so long ago many Senators questioned the propriety of nominating a gentleman with a political background to a politically sensitive intelligence post. Nor was it so long ago that the Senate Select Committee on Presidential Campaign Activities—the Senate Watergate Committee—in their final 1974 report recommended that the Hatch Act be extended to include all Justice Department officials.

It is time that the Senate face up to the political realities of the situation and recognize the dangers inherent in emasculating the Hatch Act. Although there may be areas under current law that perhaps need clarification, H.R. 8617 is not the proper means to that end.

I, therefore, urge my colleagues to oppose this bill.

Mr. President, it is my strong view that the Hatch Act is basic and important and ought to be kept intact. I hope very much that in its wisdom the Senate will not pass the pending bill which would weaken and gut the Hatch Act.

I think, at a time when there is, unfortunately, a lot of cynicism and distrust of Government and the institutions that make up the Government, certainly this would not be the time—if there ever were a time—to repeal the Hatch Act and to turn the Federal Civil Service over to the spoils system.

The people of this country, it seems to me, want to have their faith in governmental institutions restored, not further diminished. The passage of this kind of legislation, to me, would be moving a long way in the wrong direction. I hope it will be defeated.

I thank the chairman for yielding the time.

Mr. BAKER. Mr. President, I oppose this legislation to revise the Hatch Act and permit Federal civilian and Postal Service employees to actively participate in partisan political campaigns and other activities.

In my view, the Hatch Act was drawn to protect both Federal employees and the public, and proposals to alter Hatch Act restrictions should be examined with an eye toward their effect upon both of these groups.

No one argues that, in 1939, when the Hatch Act was enacted, it was badly needed to prevent abuse of the civil service merit system and to protect public employees from pressures for political favors and contributions. It was recognized at that time that public employees were in a unique position: As administrators of laws affecting all citizens their impartiality was essential to the effectiveness of Federal programs and to the public's perception of the Federal service as a nonpartisan, nonpolitical entity. Moreover, Federal employees were prime targets for those who would seek to politicize the Federal service and insure that programs were administered in a manner which would promote certain political goals.

Since 1939, the Federal Government has increased vastly in size and strength. The fact that there are more civilian employees now than ever before and that Federal programs affect more Americans directly and indirectly than at any time in our history argues strongly, in my view, for continued protection of Federal employees and the public from political influences rather than a lessening of that protection.

Supporters of the bill contend that: First, Federal employees are denied their first amendment freedoms and relegated to second-class citizenship by the Hatch Act; and second, H.R. 8617 provides adequite protection from coercion by those who would enlist the involuntary aid of employees for political purposes.

The Hatch Act does not prohibit Federal employees from exercising a whole range of options relating to political activity. They may register and vote, freely express political opinions, join political parties and participate in political rallies and fund-raisng activities. They may not, however, take an active part in political campaigns; and this provision of the law has been upheld by the Supreme Court as constitutional and consistent with the public benefit inherent in fair and impartial administration of Federal laws. As stated so well by my colleagues—Senators FONG and BELLMON—in their minority views filed with the report on this bill—

> The act merely recognizes that . . . one has no inherent right under the Constitution to be a Federal employee and a political activist at the same time.

Moreover, it seems clear that many, perhaps a majority, of Federal employees would prefer no change in current Hatch Act restrictions. My own mail has run heavily in opposition to this measure, and I understand that polls taken by other Members of Congress whose districts contain a heavy percentage of Federal employees have shown that a great majority favored retention of the Hatch Act.

In addition, I am not persuaded that the prohibitions included in the bill against solicitation of employees by those with supervisory authority over them will adequately protect employees themselves from coercion. Surely all of us realize that subtle political pressures are difficult, if not impossible, to demonstrate and prove. Recent years have shown that existing law has been violated more than once. How much greater will be the potential for violation when current prohibitions against active participation in political campaigns are removed. I wonder how an employee passed over for promotion would undertake proving that his failure to support the election of a candidate whose campaign his supervisor was responsible for his having been refused the job.

In the wake of Watergate and the revelations associated therewith, one of the most important tasks of the Congress and the executive branch is to rebuild and restore public confidence in Government. I do not believe that we can combat examples of use of Federal funds for political purposes by lessening existing protection against political activities by Federal employees. On the contrary, I believe that enactment of this legislation would result in an erosion of public confidence, an increase in cynicism on the part of Americans as they view the Federal service and a weakening of the merit system on which Federal employment is based. I urge my colleagues to oppose the bill.

Mr. McGEE. Mr. President, we want to bring up an amendment that the Senator from Hawaii has.

Mr. President, I wish to say one or two things today and I prefer not to make it too long because of the questionable receptivity of the empty desks that are around the chamber. These are very wise desks in the history of the Senate. They have accumulated a collection of knowledge. But it takes a little longer than would be possible to serve here in order to get the point across.

Mr. President, for the RECORD, I would like to mention a couple of things.

We have heard a great deal of polls being taken about what Federal employees think about the pending measure. I have noted in checking various Federal employee groups around the country, and particularly in some close by, that there has been a common misrepresentation or a mistake made in the way the question has often been posed.

I was amazed at the number of Federal employees who said to me, "Why are you trying to repeal the Hatch Act? We oppose the repeal of the Hatch Act."

That is where the gamesmanship has come into play among certain groups around the country, leaving the impression that somebody back here in Washington is trying to wipe out the Hatch Act.

I want to say again in unvarnished terms, the purpose of this legislation is to upgrade the Hatch Act. The Hatch Act was one of the wisest and most venerable of the legislative changes made in the processes of public service. We believe it is important to keep it intact.

But I have to remind those who may read this RECORD, Mr. President, that the abuses of the Hatch Act very rarely started at the bottom and worked their way up to the top. The abuses that were envisaged by the Hatch Act were those that started at the top, often at the White House level, and went down through pressures, arm twisting, threats and firings. The Hatch Act was aimed at protecting the public employee from that kind of pressure. It was to try to protect his position in public service from unauthorized, illegal, or covert efforts to abridge his own freedom of choice.

The suggestion is made to us from time to time that the Civil Service Commission has the responsibility for interpreting law and what it means and what kind of a case the law applies to.

We have several thousand opinions from the Civil Service Commission; some of them fall in very uneven ways. There is the case of a Federal employee who was pentalized because his wife worked for the candidacy for President of a controversial public figure. I mentioned the case of another employee who was hailed before the Commission because he had issued an obscene statement about one of the political parties at a cocktail party, not on the job. I must say that in our political system probably one of the healthiest forms of therapy and release is the ability to criticize a political group with whatever language you choose.

Given the fact that the Commission has a difficult, fine line to draw in many cases, the purpose of this legislation is to catch up with lessons of our time in order to make sure what the intent of the Hatch Act in fact is.

The intent should never be to inhibit participation in a relevant, political way of any Federal employee as long as he confines himself to the rules on the job. That is, he cannot use his job as a means for purveying his political wishes or activities in behalf of a candidate. At the present time, the Hatch Act is interpreted as prohibiting a Federal employee from contending for some levels of public service through the election route.

There are variables here. Variables making it more permissible for him to run for the board of commissioners or the school board, or even the State legislature. But there seems to be a general prohibition against running for Federal office.

Mr. President, this bill simply would preserve for all Federal employees the unaltered right of citizenship with only the caveat attached that it not interfere with his job; that it not take place on the premises where he is employed, and that he himself would not be free to invade other Federal premises for the purposes of furthering his own political ambitions.

That is as it should be.

It further provides that, if he chooses to run for Federal office, he should take a leave of absence from the job, the same kind of leave of absence that many people take at the present time. They disassociate themselves from the job so they might run as a citizen of the United States. But they have the right to return to the job without penalties if unsuccessful.

However, there is no option left open that in the event of success the job will be left open for an indefinite period of time. That would be unfair. It simply means that he must separate on leave without pay for the duration of his candidacy for whatever the office.

That is really what this bill is all about. It not only pursues the original intent of the Hatch Act but it enhances it. The intent is to make sure that we prohibit meddling from the top, pressure from above, and the assertion of authority by a superior over one of his own employees. Those are the matters that are indeed sharpened and tightened, as they should be.

We have the Hatch Act operating now but not without abuses to its intent. Those abuses have occurred from the top down, not from the bottom up. Therefore, it seems to me that it misses the point when critics of this proposal continue to warn us that we are going to have all kinds of trouble coming from the lower echelons up through the service.

There is no record of that, Mr. President. In fact, in the legislative history a few years ago, in the wisdom of Congress, we separated a lot of public employees from that implication of the Hatch Act; that is, State and local employees. We have yet to receive a case in this instance of any significance where there were abuses at the bottom.

Thus, the purpose, of the bill is to restore the Hatch Act to its original intent without hobbling the broadest citizenship rights and responsibilities of those who are covered by the Hatch Act. It is spelled out very clearly.

If we can only eradicate this hogwash about repealing the Hatch Act, I believe we will then be getting down to the sum

and substance of the measures included in this bill.

Mr. President, it was said here in the Senate late yesterday afternoon that passage of the pending bill to amend the Hatch Act would be a step backward, not just to 1939 and 1940 when the Hatch Act as we know it was enacted, but to 1907—the year Civil Service Rule I. was promulgated. But is that so? I think that passage of H.R. 8617 would at long-last improve and refine the Hatch Act. To those of us who favor and support this legislation it is a step forward, in consonance with the Nation's steady movement toward expanding civil liberties and an expanded and involved electorate.

The Hatch Act, in all its vagueness, represents a departure from the American march toward greater participation in the electoral processes by which we choose our leaders and ultimately decide our future as a people. And it is a vague law indeed, incorporating as it does, "those acts of political management or political campaigning which were prohibited on the part of employees in the competitive service before July 19, 1940, by determinations of the Civil Service Commission under the rules prescribed by the President."

Mr. President, there are about 3,000 such determinations and a Federal employee is bound by all of them. I will grant that the Civil Service Commission has boiled these down into a list of "do's" and a list of "dont's," but that does not change the law nor the chilling effect such broad statutory language has upon the people who are subject to it and to the severe penalties required to be imposed on those found to have violated the law. And the penalties are severe. He is removed from his job unless the Civil Service Commission finds unanimously that the violation does not warrant removal, in which case the penalty is 30 days' suspension without pay.

By contrast, the bill before us is a gem of specificity and reasonableness. It says an employee may engage, voluntarily as a private citizen, in partisan political activity so long as he adheres to the specific limits spelled out in the bill. And it provides an impartial and independent Board with the authority to fit the penalty to the crime, so to speak.

The Supreme Court has, and quite recently, held in the case of the U.S. Civil Service Commission against the National Association of Letter Carriers that the Hatch Act is a constitutional enactment. We supporters of H.R. 8617 certainly do not quibble with that judgment, which does not mean that the Hatch Act as it stands is untouchable by the Legislature. Indeed there was a dissenting opinion on that case in which three Justices held that "it is of no concern of Government what an employee does in his spare time, whether religion, recreation, social work, or politics is his hobby—unless what he does impairs efficiency or other facets of the merits of his job."

This bill did not spring full-blown from the committee after 2 days of hearings. Indeed, the committee has been concerned with the Hatch Act for some time and might well have reported legislation at an earlier date, save for the course of the litigation that led to the Supreme Court's decision in June of 1973. Hearings were held on legislation of similar purpose in the 92d Congress and back then, in 1972, the Civil Service Commission assured us it was working on proposed legislation that would address the need for change in the Hatch Act. The trouble is, of course, that time and events press on but the executive branch does not always do so. We still have not received those recommendations, described as work in progress back in 1972, and it now is 1976.

The vagueness of the Hatch Act was recognized and commented upon by The Commission on Political Activity of Government Personnel in its 1968 report. It reported:

> . . . there are every-increasing difficulties confronting public employees in ascertaining what the statutory restrictions mean under the Hatch Act, and in knowing what interpretation has been given to the act by the Civil Service Commission in rulings which often are not published or readily available in usable form.

Everyone, it seems, can cite that Commission. I did so in my remarks yesterday, when I noted that the Commission had commented in its report upon the dramatic changes, not only in the American political system, since 1939, but also in the civil service itself. It is more sophisticated, more technological, more merit and performance directed, and less susceptible to traditional patronage schemes—patronage schemes we have seen of late.

And, Mr. President, the Hatch Act did not deter those cloaked with executive power from hatching such a scheme. My point is that abuses of this nature do not flow from the activity of private citizens acting voluntarily, by their own lights, on their own free time. Abuses of the merit system flow from the top down. Abuses of the political system, virtually all evidence tells us, descend in the same manner.

What we need is to promote involvement in the political processes of citizens in all walks of life, not discourage it.

We are told that civil servants do not want changes in the Hatch Act. Of some, that undoubtedly is true. Of others, it most certainly is not. I do not believe the Senate of the United States should peg its decision upon postcard polls conducted by Members of Congress within their districts. Indeed there is evidence of disagreement among such polls. I do not believe the Senate of the United States should base its actions on a more statistically-sound but dated and somewhat ambiguous poll now 8 years out of date.

When the report of the Commission on Political Activity of Government Personnel was issued in 1968, State and local employees engaged in work funded in whole or in part by Federal funds were also hatched to the same extent that Federal workers still are. Today they are not. The Congress in its wisdom, as a provision of the Federal Election Campaign Act Amendments of 1974, substantially un-Hatched those State and local employees. I have not heard of a scandal yet.

So, Mr. President, the Congress has moved, a step at a time. The next step is to accord to Federal employees essentially the same rights that other Americans enjoy to participate in the political decisionmaking process to the extent they wish to.

This issue of individual rights has been turned, by some, into an anti-labor issue. The threat they see is that unions composed of Federal workers will somehow gain more "clout" that will enable them to get a "stranglehold" on our Government.

That their members will be free to take an active part in political affairs is unarguable. But that is the right of all Americans, is it not?

That unions or associations or clubs composed of employees of the Federal Government will be free to take a position on public issues and work toward the realization of their freely arrived at goals is also true. But what is wrong with that?

So long as the Senate stands, with the House across the way and with the White House to the west and the Court to the east of us, I do not think we need fear that Federal employees will get a stranglehold on this Government. They might have a voice, just as every other group of Americans can have. But if anyone thinks the Federal employee speaks with one voice, he is sadly mistaken. If the various polls cited here yesterday demonstrate anything, they demonstrate that.

In 1939, when the Hatch Act was amended, without public hearings on the bill in either House, incidentally, and without substantive debate in the Senate, only about one-third of the Federal work force of 950,000 was under the merit system. Today the Federal work force, as we all know too well, is considerably greater, and two-thirds of it is under the merit system. That system is a good one. It can use strengthening. yes, but the professionalism of that work force and of the Civil Service Commission itself in administering the system these people labor in is such that it insures much greater protection for the employee than existed in the days of the depression when the abuses that gave rise to the Hatch Act arose. And those abuses did not by-and-large involve the career civil service, but rather the various programs created outside the competitive service to address the economic conditions of that time.

H.R. 8517 frees the Civil Service Commission to focus its energies on the task of educating employees and seeking out both potential and real violations of the law. It goes far to protect the employee against coercion, be it blunt or subtle whether from a supervisor or a force outside the civil service.

The Senate has been told that this act, permitting employees to take part voluntarily and on their own free time will have a corrosive effect on them. In other words, politics is a corrosive business. It may well be that many people believe that is so, which is unfortunate All 100 Members of this Senate are politicians. All 100 Members of this Senate presumably believe that politics is at

the very base of our decisionmaking process. If politics has become a dirty word among some people, it should be our responsibility to uplift it. Nearly 3 million Americans out there are alienated from their right to fully participate and assist in the uplifting of politics. They are people who have passed the tests of the merit system. They measure up. They will not corrode our political system. They can bring to it much polish to help shine the image, if that is their choice.

Mr. President, many things have changed since 1939. The Works Progress Administration, in which the abuses which gave rise to the Hatch Act centered, is long gone. The stringent restrictions on the rights of the vastly-increased Federal work force, however, remain as a holdover from those by-gone days. Those rights should be restored and the emphasis placed upon curbing abuses, which is where H.R. 8617 puts the emphasis. It is said we are repealing or "emasculating" the Hatch Act. It is true this bill would work some significant changes in the Hatch Act, up-dating it to conform with the realities of 1976, not 1939. Those changes are fully justified, for it is a serious business to curb the rights of any citizen.

Mr. President, we are now prepared to turn to a series of amendments that are being proposed by Members of this body. It is appropriate that the ranking minority member of the committee, the distinguished Senator from Hawaii (Mr. FONG) start that process. We have no agreement as to time. We have no limitations of that sort. We are considering the amendments at this stage on their substance.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Chair will advise the Senator that floor amendments are not in order until the committee amendments have been disposed of unless it is an amendment to a committee amendment.

Mr. McGEE. May I make a parliamentary inquiry?

The PRESIDING OFFICER. The Senator will state it.

Mr. McGEE. Those are technical amendments. It does not violate the procedures to address the question of the pending amendment. We will have it formally laid before the Senate as soon as that little bookkeeping matter is taken care of.

The PRESIDING OFFICER. The Senator is correct. The Senator could ask unanimous consent that the committee amendments——

Mr. McGEE. I ask unanimous consent that we may proceed in the discussion of a pending amendment under those ground rules.

Mr. FONG. I have no objection.

The PRESIDING OFFICER. That does not require unanimous consent. The Chair would suggest that the committee amendments could be agreed to en bloc and that the bill as so amended be treated as original text.

Mr. McGEE. Then I ask unanimous consent, that we turn now to the amendment of the Senator from Hawaii as the pending business.

The PRESIDING OFFICER. Once the committee amendments are disposed of we can turn to his amendment.

Mr. McGEE. I am asking unanimous consent that before the committee amendments are disposed of, because they are being grouped and prepared for submission, that we allow Senator FONG to proceed, with the understanding that we simply want to avoid any delay that would otherwise ensue.

The PRESIDING OFFICER. Does the Senator refer to the reported committee amendments?

Mr. McGEE. If the Parliamentarian will advise the Senator from Wyoming: We have agreed that the Senator from Hawaii should proceed next. Any way you want it phrased, framed, or submitted, so that we are in order, I ask unanimous consent that that be agreed to.

The PRESIDING OFFICER. Without objection, the Senator from Hawaii may offer an amendment at this time.

Mr. FONG. Mr. President, the distinguished chairman of the committee says that there has been widespread talk that we are repealing the Hatch Act by the present legislation. Although the legislation which is before us at this time does not repeal the Hatch Act in toto, in substance it knocks out the most substantive part of the present Hatch Act. In substance, it knocks out the very heart of the act.

I am referring to sections 7323 and 7324 of the United States Code. Section 7323 provides as follows:

§ 7323. Political contributions; prohibition.

An employee in an Executive agency (except one appointed by the President, by and with the advice and consent of the Senate) may not request or receive from, or give to, an emloyee, a Member of Congress, or an officer of a uniformed service a thing of value for political purposes. An employee who violates this section shall be removed from the service.

The pending legislation does away with that provision, so that any Member of Congress could receive and could solicit contributions from Federal employees; a Federal employee could solicit from another Federal employee and receive from the other employee a contribution; and the only prohibition is that a superior could not solicit or receive a political contribution from a subordinate or at the place of unemployment.

This legislation also deletes from the present Hatch Act another very substantive provision, which I believe is the most substantive provision in the Hatch Act:

§ 7324. Influencing elections; taking part in political campaigns; prohibitions; exceptions.

(a) An employee in an Executive agency or an individual employed by the government of the District of Columbia may not—

(1) use his official authority or influence for the purpose of interfering with or affecting the result of an election;

That is basically retained in the pending bill; but this second part of section 7324 is entirely wiped out by the legislation before us:

(2) take an active part in political management or in political campaigns.

For the purpose of this subsection, the phrase "an active part in political management or in political campaigns" means those acts of political management or political campaigning which were prohibited on the part of employees in the competitive service before July 19, 1940, by determinations of the Civil Service Commission under the rules prescribed by the President.

This rule has been in effect since 1907, when President Teddy Roosevelt declared by executive order that there should be no active campaigning or partisan management by Federal employees. This is really the heart of the Hatch Act. This provision, which deals with the prohibition on political management or engaging in political campaigns, is the heart of the Hatch Act and includes the prohibition against soliciting or the receiving of a political contribution. When the distinguished chairman of this committee said that we are not repealing the Hatch Act, technically he is correct, but substantively he is not, because we are really gutting the Hatch Act, emasculating it as we know it today.

Mr. President, yesterday the distinguished Senator from Alaska (Mr. STEVENS) made a statement on the floor of the Senate, speaking for the legislation, in which he said, as recorded in the CONGRESSIONAL RECORD on page S3108:

Under current law, a Federal employee is in violation of the Hatch Act by having a partisan candidate's bumper sticker on his/her auto, or a candidate's sign in his yard, even though that sticker or sign may have been placed there by the Federal employee's spouse or family member. The Hatch Act, in fact, not only restricts the Federal employee from participating in political activities, but in reality it actually prohibits the Federal employee's family from certain political involvement as well.

This is the statement made yesterday by the distinguished Senator from Alaska. Mr. President, that statement is not correct. I called and asked the Civil Service Commission to look at that statement and give me a reply, and this is the reply I received this morning from the Civil Service Commission. I read it for inclusion in the RECORD:

Senator Stevens was misinformed in some of his remarks on Tuesday. He stated it is in violation of the Hatch Act for Federal Employees to have bumper stickers on their car or a candidate's sign in their yard, even if placed there by a spouse or family member. He stated that the Hatch Act in reality prohibits an employee's family from certain political involvement as well.

This is simply wrong. The Commission's regulations specifically allow employees to "display a political picture, sticker, bade or button." (5 Code of Federal Regulations 733.111(a)(3)). Small yard sings and window posters are in basically the same category of permitted activity. Further the Hatch Act applies only to employees, not to an employee's spouse or to other family members who are not themselves also employees.

So you see, Mr. President, a member of a Federal employee's family can do anything. Nothing in the Hatch Act prohibits that member of an employee's family from campaigning actively or becoming a campaign manager, or becoming a candidate for office. Even the Federal employee himself could carry a badge. He could display a sticker saying "I am for Senator so and so." That is

permissible. So the statement made by the distinguished Senator from Alaska yesterday is wrong, and I wish to correct the record.

Mr. WILLIAM L. SCOTT. Mr. President, will the Senator yield?

Mr. FONG. I am very happy to yield to the distinguished Senator from Virginia.

Mr. WILLIAM L. SCOTT. Mr. President, I appreciate the Senator's yielding.

Recalling back a few years ago, the question came up before the Civil Service Commission, and as I recall, when they were thinking of the spouse doing things not permitted the employee under the act, the Commission said that if the spouse were acting as agent for the employee, then it would be prohibited, if, in effect, the spouse were acting at the employee's command. If we are talking about a male employee, I do not know how one can make his wife do something that she does not want to do. We think of husband and wife as being independent and doing things that they either want to do or do not want to do. I do not know how one would prove that the act of a spouse was really the act of an employee.

Mr. FONG. Unless the spouse will testify as such, but one cannot get any spouse to testify as such.

Mr. WILLIAM L. SCOTT. I doubt that. There also might be a question of rules of evidence involved.

But I recall when I was a classified employee, and I was one for more than 26 years. I expect I was such an employee about as long as any other Member of Congress. I was working under the Classified Civil Service. While an attorney with the Department of Justice, my wife was active in politics, although I was not active, as I was covered by the Hatch Act and by the existing provisions of law.

So, I agree with the statement made by the distinguished Senator from Hawaii and certainly with the Commission's view. I think this is done all the time and done openly and knowingly, and the Commission is aware that other members of families can participate and the act applies to the employee only.

Mr. FONG. Just to the employee.

Mr. WILLIAM L. SCOTT. I appreciate the Senator bringing this matter up and yielding to me briefly.

Mr. FONG. Mr. President, I thank the distinguished Senator.

I shall go further and show what the permitted activities are under the Hatch Act at present.

A Federal employee is now permitted a wide range of activities, mainly:

First, register and vote in any election;

Second, express his opinion as an individual privately and publicly on political subjects and candidates;

Third, display a political picture, sticker, badge, or button;

Fourth, make a financial contribution to a political party or organization;

Fifth, participate in the nonpartisan activities of a civic, community, social, labor, or professional organization, or of a similar organization;

Sixth, be a member of a political party or other political organization and participate in its activities to the extent consistent with law;

Seventh, attend a political convention, rally, fund-raising function, or other political gathering;

Eighth, sign a political petition as an individual;

Ninth, take an active part, as an independent candidate, or in support of an independent candidate, in a nonpartisan election.

In specified municipalities, having high concentrations of Federal employees, as in the home State of the distinguished Senator from Virginia, or in Maryland—and there are 4 places in Maryland, 11 in Virginia, and 13 in other States—employees may be independent candidates for and serve in elective office and as independents and may take an active part in political management and campaigns in connection with partisan elections for local offices of the municipality or political subdivision.

Tenth, be politically active in connection with a question which is not specifically identified with a political party, such as a constitutional amendment, referendum, and so forth;

Eleventh, serve as an election judge or clerk, or in a similar position to perform nonpartisan duties;

Twelfth, otherwise participate fully in public affairs, except as prohibited by law, in a manner which does not materially compromise the efficiency or integrity of an employee or the neutrality, efficiency, or integrity of the agency.

So, one can say, Mr. President, there are many, many things that a Federal employee can do and is permitted to do under the current Hatch Act.

The only few things that he cannot do are that he cannot actively compaign or be a campaign manager for political office and he cannot solicit or receive a political contribution for a political candidate.

AMENDMENT NO. 1276

Mr. FONG. Mr. President, at this time I call up my amendment No. 1276.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Hawaii (Mr. FONG) proposes an amendment numbered 1276.

Mr. FONG. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 3, line 19, strike out "and"

On page 4, line 2, immediately after the semicolon, insert "and".

On page 4, strike out lines 3 through 6, and insert in lieu thereof the following:

"(D) includes the provision of personal services for the purpose of influencing the nomination for election, or election, of any individual to elective office or for the purpose of otherwise influencing the results of any election;".

On page 4, line 7, strike out "(5)" and insert in lieu thereof "(4)".

On page 4, line 10, strike out "(6)" and insert in lieu thereof "(5)".

On page 6, strike out lines 4 and 5, and insert in lieu thereof the following:

"(3) knowingly give or hand over to or solicit, accept, or receive, or be in any manner concerned with soliciting, accepting, or receiving from another employee, a political contribution;".

On page 6, strike out lines 8 through 13 and insert in lieu thereof the following "receiving, a political contribution in any room or building occupied in the discharge of official duties by—".

On page 6, line 14, strike out "(i)" and insert in lieu thereof "(A)".

On page 6, line 19, strike out "(ii)" and insert in lieu thereof "(B)".

Mr. FONG. Mr. President, this amendment, No. 1276, seeks to accomplish two objectives:

First, this amendment includes within the definition of "political contribution" the "provision of personal services for the purposes of influencing the nomination for election, or election of any individual to elective office or for the purpose of otherwise influencing the results of any election."

"Personal services" could mean such political activities as ringing doorbells and handing out literature. With this definition of "personal services," solicitation of more than financial contributions would be prohibited. And why not, when such personal services are often more valuable than financial contributions. My amendment would protect employees from being pressured into providing this type of service, as well as from being pressured into providing financial contributions.

Under the Federal election laws, a person is allowed to contribute up to $1,000 to a candidate. But what about a person who contributes his labor to a campaign valued at many thousands of dollars?

Since H.R. 8617 would place restraints on the contribution of money, I believe it is only right and fair to place restraints on the contribution of personal service intended to affect the outcome of any political election. This is particularly so in the case of Federal employees because of their public identity as a part of the Government, particularly so in a superior-subordinate relationship. Should a superior be allowed to solicit his subordinate to go and ring doorbells, pass out literature, or speak up for his candidate? This amendment says no.

Second, the amendment also prohibits employees—regardless of their superior-subordinate relationship—not only from giving a political contribution to another employee but also from asking for or receiving such a contribution from another employee. My amendment is intended to reduce the incidence and temptation of both giving and receiving political contributions under coercion, subtle or otherwise.

It eliminates the superior-subordinate relationship and prohibits the receiving and giving of contributions between all employees.

There are many ways an aggressive employee can exert subtle political influence on his fellow workers even though he may not be a superior of those employees. It is not enough to ban soliciting by superiors; as H.R. 8617 proposes; the prohibition must extend to all employees since, through subtle and not so subtle means, it is possible for

nonsuperiors to apply coercion on other employees, who would have no protection unless an amendment such as I am proposing is adopted.

Take the hypothetical situation which Carl Goodman, General Counsel of the Civil Service Commission, presented at the Senate committee hearing on H.R. 8617:

A "superior" is known to be actively campaigning for candidate "X". One of his or her subordinates, who is generally known to be personally close to the superior, or who is known to be the superior's "right-hand man", but is not superior to other employees within the definition set forth in the bill, approaches other employees in front of the building, or in the parking lot or at their individual residences, and solicits contributions for candidate "X". Those employees so solicited must decide if it is expedient for them to either contribute or decline to contribute, being aware of the possibility that the superior may learn whether or not a contribution was made. They would also be aware that it would be extremely difficult, if not for all practical purposes impossible, to prove that any particular employee is promoted, or passed over for promotion, because he or she made a political contribution or failed to make a political contribution. There is no evidence to indicate that the superior instructed or even suggested to the subordinate that contributions should be solicited. Even if that had occurred, it is unlikely that such evidence could be obtained, since the subordinate would not be in violation by soliciting and would have no reason to implicate the superior.

Under the Hatch Act today, such a situation cannot arise since the superior cannot be actively campaigning or even if he could, his "right-hand man" could not be engaged in solicitation or other political management.

Such a case as I have just illustrated could not be successfully prosecuted under H.R. 8617.

Another illustration of subtle coercion was cited by Mr. Goodman:

An employee is aware of a vacancy which would be a promotion for him. He also is aware that the person who will make the selection is actively supporting a particular candidate. Add to that the fact that another employee who will be in competition for the vacancy is also working actively on behalf of the same candidate.

Our first employee must now make a decision with respect to his own activity. Can he really afford not to also campaign for that candidate? Or can he afford to exercise his "right" of choice by actively campaigning for the opposition?

What is at play here is internal coercion—the employee is caught between the proverbial rock and the hard place.

Today he need not be concerned about making this no-win choice—he is hatched; he is protected.

Still another illustration can be offered:

How about the employee engaged in political management who suddenly finds that the opposition candidate is his boss; or worse yet that the candidate he just successfully helped defeat now is boss and is responsible for his promotions, work assignments, leave, etc.?

Are all political activists of such pure heart that they can and will completely overlook the fact that subordinates deprived them of elective offices they worked so hard to obtain?

Those who oppose the present Hatch Act argue that the act restricts the political freedom of Federal employees and thereby infringes on their first amendment rights. But as John Bolton points out in his recent study, "The Hatch Act—A Civil Libertarian Defense," there are other important first amendment values which support the present restraints on the political activities of Federal employees. These fall into two broad categories: First, Government workers have a right to be free from political coercion, not only from their superiors but from their coworkers as well. My amendment is designed to protect the first amendment rights of the Federal employee to be free from political coercion or influence of his fellow employees, regardless of superior-subordinate relationship.

John Bolton, in discussing first amendment rights, says, further, that the first amendment rights of the general public are at stake here, too, for the public's willingness to speak or associate may be chilled if it believes that its political activity, or lack of political activity, will make a difference in the way it is treated by a politically active bureaucracy.

FEDERAL WORKERS NOT "SECOND-CLASS CITIZENS"

In discussing first amendment rights, proponents of H.R. 8617 have advanced the specious claim that the Hatch Act reduces Federal employees to the status of "second-class citizens," depriving them of their first amendment rights of free speech and free association. But Mr. President, what about the first amendment rights of the Federal employee to be left alone from the influence of his fellow employees?

The right to participate in political activities is not, and never has been, absolute. In U.S. Civil Service Commission against National Association of Letter Carriers, the Supreme Court recently sustained the constitutionality of that provision in title 5, United States Code, which prohibits Federal employees from taking an active part in political management or in political campaigns, the very provision H.R. 8617 would repeal.

The Court held that:

A major thesis of the Hatch Act is that to serve this great end of government—the impartial execution of the laws—it is essential that Federal employees not, for example, take formal positions in political parties, not undertake to play substantial roles in partisan political campaigns and not run for office on partisan political tickets. Forbidding activities like these will reduce the hazards to fair and effective government.

There is another consideration in this judgment: It is not only important that the government and its employees in fact avoid practicing political justice, but it is also critical that they appear to the public to be avoiding it, if confidence in the system of representative government is not to be eroded to a disastrous extent.

The Supreme Court has repeatedly held that the interests of society must be balanced against the interests of the individual. In this case, it is reasonable, and the lesson of history shows it is necessary, to curtail the political activities of Federal employees in the interests of society and also in the interests of the employees. Federal employees know this. Impartial administration of the law without regard to personal convictions or political affiliations is required for a fair and efficient Government.

Even if intensive involvement in politics does not taint an employee's administration of the law—an unlikely situation—it would certainly taint the public's perception of Government affairs. More than a few citizens, one suspects, would be less willing to comply voluntarily with Internal Revenue Service regulations, were the Regional Director of the Revenue Service also the manager of a Governor's campaign.

Moreover, the interests of the vast majority of Federal employees, those with no burning desire to become involved in partisan affairs, seem to require that restraints be placed upon the ambitions of their more politically inclined coworkers.

POLITICAL RIGHTS OF FEDERAL EMPLOYEES

Nor are the first amendment rights of Federal employees seriously impaired. While there are prohibited activities under the Hatch Act, there are at least as many permissible activities. An employee may register and vote in any election; express his opinion privately and publicly on political subjects and candidates; display a political picture, sticker, badge, or button; participate in the nonpartisan activities of a civic, community, social, labor, or professional organization; be a member of a political party and participate in its activities to the extent consistent with the law; attend a political convention, rally, fundraising function, or other political gathering; sign a petition as an individual; be politically active in connection with a question not specifically identified with a political party, such as a constitutional amendment, referendum, approval of a municipal ordinance or any other question or issue of a similar character; and serve as an election judge or clerk, or in a similar position to perform nonpartisan duties as prescribed by State or local law.

In addition, the Civil Service Commission has determined that in certain municipalities in Maryland and Virginia in the vicinity of the District of Columbia, or in a municipality in which the majority of voters are employed by the Government of the United States, it is in the domestic interest of employees for them to participate in local elections. In these designated municipalities, an employee is permitted to run in a partisan election if he runs as an independent candidate.

Employees who reside in areas which do not qualify under the criteria cited above, may also run for public office and engage in political activity, but only in a nonpartisan election.

Nathan Wolkomir, president of the National Federation of Federal Employees, has capsuled the issue very clearly when he said:

Claims that the Hatch Act makes "second-class citizens" of Federal employees is just so much eyewash. Federal employees are not denied reasonable and appropriate participation in the political process. Oddly, many of those who moan most loudly about this moth-eaten cliche fail to exercise the basic and most elementary action of a citizen, namely, to register and vote.

Robert E. Hampton, Chairman of the U.S. Civil Service Commission, testified before the Senate Post Office and Civil

Service Committee that a record number of people in recent years have expressed interest in Federal employment and most of them were well aware of the Hatch Act restrictions on their political activity if they accepted a Federal job. Evidently, these individuals don't think the Hatch Act makes them second-class citizens, Chairman Hampton said, and the political restrictions are not a deterrent to their seeking Federal employment.

Lastly, let us remember this all-important fact about the Hatch Act: It properly recognizes that one cannot administer the law impartially while advocating partisan reform.

On the one hand, the Hatch Act does not deny a citizen his right to manage a political campaign or to run for political office. But let that citizen stay out of Federal employment.

On the other hand, the Hatch Act does not deny the qualified citizen the privilege of a secure, well-paying post in the civil service. But let that citizen stay out of partisan politics. In short, the message of the Hatch Act is this: One has no inherent right under the Constitution to be a Federal employee and a politician at the same time. To put it in colloquial language: you cannot have it both ways; you cannot have your cake and eat it, too.

Let us remember, Mr. President, that the Hatch Act was enacted by Congress 36 years ago as an answer to widespread scandals and abuses, such as the solicitation of Government workers for political contributions and the hiring and firing of workers on the basis of political affiliations.

My amendment goes to the heart of this problem. By prohibiting one employee from soliciting another and from being solicited by another, we will have done what the present Hatch Act was designed to do.

Congresss passed the Hatch Act in 1939, at a time of extensive corruption in the Federal workforce. Under the New Deal, the Works Progres Administration—WPA—funded wholly or partially over 3 million public works jobs in areas of high unemployment. Public indignation grew over reports of widespread financial solicitation by Democratic Party officials from WPA workers as a condition of continued WPA employment, salary advancement, and favorable job assignment.

As a result of these allegations of political corruption and accepting such contributions, the Senate created a special investigating committee headed by Senator Morris Sheppard of Texas. The Sheppard committee's report of January 3, 1939, contained numerous documented cases of political coercion that occurred in 10 States. These examples of coercion dealt with the soliciting and the receiving of financial contributions from WPA workers, which my amendment hopes to cure.

Committee investigators obtained affidavits from WPA workers which showed extensive solicitation of financial contributions from WPA workers by WPA supervisors closely associated with local political organizations which, in turn, were affiliated with the National Democratic Party.

Continued employment on WPA projects, as well as promotions and favorable work assignments, were often contingent upon direct financial contributions to local party organizations or the purchase of tickets to various fundraising functions.

In Kentucky, for example, the committee found that $70,000 had been raised for the Governor's campaign from State employees whose salaries had been partly or wholly derived from funds paid by the U.S. Treasury, and that $24,000 had been raised for a Senator's campaign from WPA employees and from other State employees receiving Federal money.

The committee found particular abuses by administrative personnel in the WPA in Kentucky; specifically, they had made a systematic canvass of certified WPA workers, that workers had been hired and fired on the basis of political affiliation, and that WPA workers had been solicited for political contributions.

Based on these findings, the Sheppard committee recommended that Congress pass legislation to prohibit the political coercion and political contributions of all Federal employees. The spectacular evidence of patronage politics prompted Congress to respond quickly, and the Hatch Act was enacted in the same year.

Now, 36 years after the enactment of the Hatch Act, after a very thorough investigation by the Sheppard committee of political coercion, political financial solicitation, and receiving of contributions, proponents of H.R. 8617 seek to repeal the time-tested provisions of the Hatch Act which have protected Federal employees for so long and so well.

I implore my colleagues not to forget the sordid political past which prompted an earlier Congress to enact the 1939 law and to strike down the current effort to permit all-out partisan politics at the Federal level and open the way for a return to the "spoils system" of the past.

This is not the time to open the floodgates to all-out politicking by Federal employees. I call attention to a letter from an outstanding organization, the National Civil Service League, to the chairman of the Senate Post Office and Civil Service Committee dated December 8, 1975. I would like to read excerpts from the letter, which begins by stating the National Civil Service League opposes H.R. 8617 and other similar legislation as follows:

> These bills, which would virtually repeal the Hatch Act, are, in our opinion, inimical to merit employment and apt to lead to a rebirth of the "spoils system" against which the League has fought for more than 90 years. Without the Hatch Act or comparable limitations on employees' political activities, our traditional civil service system, and with it the impartial and efficient transaction of the public's business, would be seriously jeopardized. At best, there would be constant tension and suspicion between politically active employees and their co-workers, by all indications a majority, whose primary concern is that their careers continue to be dependent on performance rather than political allegiance. At worst, the fears of political coercion and intimidation voiced by many federal employees would be realized.

The league goes on further and says:

> Although it is true that H.R. 8617 contains provisions designed to prevent coercion, the League feels that they are inadequate to combat the kind of subtle and indirect intimidation which would be most likely to occur. Some will argue, too, that in the absence of the Hatch Act's restrictions, employee organizations will protect their members. This may be a remedy for some workers, though the capacity and will of employee groups to perform this task remains to be seen. Moreover, this provides no solace for mostly unorganized Government executives—precisely the group which was most sorely pressed during the Watergate-related assault on the merit system.

I urge my colleagues to give careful consideration to the views of the National Civil Service League, which has been the watchdog of the merit system since 1883 when it was responsible for the passage of the original Pendleton Civil Service Act. With its long history in behalf of merit employment, the National Civil Service League has ample reason to fear the rebirth of the "spoils system" through the enactment of H.R. 8617. I fully share that concern and commend the league for its strong opposition to the bill before the Senate.

Amendment No. 1276, which is the amendment we are now considering, is a step toward keeping partisan politics out of the civil service merit system. It would prohibit the receiving and giving of political contributions between all employees—not only between the "superior" or supervisor and the employees below him. This would minimize the opportunities for political pressures and coercion among all Federal personnel.

As pointed out earlier, my amendment would have the other objective of protecting employees from being pressured into providing not only financial contributions but, just as important, from being pressured into providing nonmonetary "personal services." These "personal services" include such political activities as ringing doorbells and handing out literature.

We in Congress are debating Hatch Act legislation at a very sensitive period in our Nation's history. As we are all aware, most of the American public take a critical and cynical view of the operation of our Government, particularly at the Federal level. Their disenchantment with the conduct of the Government is reflected in the public's low esteem as reported in public opinion polls.

If the word "politics" was a dirty word before, I am afraid it is regarded even more so today, in the wake of the Watergate experience and the many other political scandals since then. We should, therefore, be very much aware of the skeptical, hostile attitude of Americans generally toward any efforts to open up partisan politics to nearly 3 million Federal employees.

Since its enactment, the Hatch Act has served our Nation well. It has kept our Federal Civil Service system impartial, independent, and relatively free from partisan politics. It has assured the American people that their Government is operated by civil servants protected by the Hatch Act so they can render fair, nonpartisan, efficient public service.

My amendment would help prevent

the scuttling of the Hatch Act and provide the protection the Federal employees want and should have. Therefore, I urge its approval.

The PRESIDING OFFICER. Who seeks recognition?

Mr. FONG. I suggest the absence of a quorum, Mr. President.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. McGEE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. McGEE. Mr. President, in accord with a colloquy with the Parliamentarian just before we started the discussion of Senator FONG's amendment No. 1276, I now ask unanimous consent that the committee amendments be agreed to en bloc and, as agreed, be considered as original text for the purposes of amendment.

The PRESIDING OFFICER. Is there objection?

Mr. FONG. I have no objection.

The PRESIDING OFFICER. The question is on agreeing to the committee amendments en bloc.

The committee amendments were agreed to, as follows:

On page 5, beginning with line 8, insert the following:

"(b) Nothing in this section authorizes the use by any employee of any information coming to him in the course of his employment or official duties for any purpose where otherwise prohibited by law.

On page 5, at the beginning of line 13, strike "'(b)" and insert "'(c)";

On page 6, in line 22, strike "duty, etc.;" and insert "duty;";

One page 8, beginning in line 17, strike out: "occurs. The preceding sentence shall not apply to the extent an employee is otherwise on leave."

And insert in lieu thereof: "occurs, unless the employee is otherwise on leave."

On page 9, in line 9, strike "foregoing";

On page 10, in line 11, strike "year," " and insert "year";

On page 13, beginning in line 8, strike "a notice by certified mail, return receipt requested" and insert "a written notice by certified mail";

On page 14, in line 17, strike "duly";

On page 14, in line 20, strike "duly filed," and insert "filed within the time allowed,";

On page 18, in line 11, strike "Board. Thereupon the Board shall certify", and insert "Board which shall then certify";

On page 25, under "Subchapter III—Political Activities, Sec. 7325.", strike "duty, etc.;" and insert "duty;".

Mr. McGEE. It is my understanding, Mr. President—and I propound this to the Parliamentarian—that the Fong amendment is now officially in order and that we may proceed under that order and seek to secure enough bodies for the yeas and nays.

The PRESIDING OFFICER (Mr. GLENN). The Senator is correct.

Mr. McGEE. I will have just about a minute of comment on the Senator's amendment, and then we would be prepared to have another quorum call to permit the rounding up of the troops in order to get the yeas and nays so that we might proceed to vote on the Fong amendment.

In behalf of the—does the Presiding Officer have a declaration he wants to make? He appeared to have something imminent.

The PRESIDING OFFICER. I am sorry, I did not understand the question.

Mr. McGEE. I saw the Parliamentarian directing marching orders, and I thought maybe there was something I had intruded upon that we could not live without from the occupant of the Chair.

[Laughter.]

The PRESIDING OFFICER. Not at all. I had asked the Parliamentarian if we were under time limits, which we are not.

Mr. McGEE. I see.

I want to say to the occupant of the Chair, the distinguished Senator from Ohio, that he had some eloquent remarks in one of our Sunday newspapers on nuclear proliferation that I wanted to commend him for and which I took the liberty of calling to the attention of people across the country so they might share the wisdom that was contained therein.

The PRESIDING OFFICER. I thank the distinguished Senator from Wyoming.

Mr. McGEE. The Chair is not entitled to make a speech, so he can say nice things about me the next time he gets the floor. [Laughter.]

My objections, in behalf of the majority of the committee, reflect the fact that the Fong amendment was considered by the committee and it was voted down 6 to 2. As I recall—and I reserve the right to adjust that by one number, I was uncertain about one member who was absent that day but, as I recall, it was about 6 to 2.

Mr. FONG. Why not make it 7 to 2.

Mr. McGEE. 7 to 2. I will accept that amendment from my colleague. In any case I did not want it to appear that the committee had not given due consideration to the proposal.

Now, the legitimate question for us to consider is, why did the committee decide to reject the Fong amendment when it was first considered?

I think the simplest explanation is that the Fong amendment appears to gut the pending legislation. It goes to the very heart of the matter. What it says is that Federal employees cannot voluntarily involve themselves in any meaningful way with political campaigns or political issues. It would bar an employee who might be a candidate for an office from receiving assistance or contributions from his supporters who also worked for the Federal Government.

The bill simply says that these things cannot happen on the premises of the employer but must be voluntary and occur in one's own neighborhood, or wherever he wishes to traffic with those ideas, as a private citizen, so long as he does not take the employer's time or use the employer's location for those purposes.

Thus, to read the Senator's amendment to it's ultimate meaning is to see a provision that would specifically deny the first amendment rights that all citizens are very jealous to preserve.

The Senator's amendment does have some of the restraints that are already in the measure that we are now considering. For example, prohibiting solicitation by superiors of those beneath them for political purposes. That is one of the grievances that exists under the present system.

The bill makes such solicitation not only illegal, but makes the penalties for breaking that proviso in the pending measure very severe.

For those reasons, on behalf of the majority of the committee that voted 7–2 against the Fong amendment, I would have to oppose the amendment here today.

Mr. FONG. Mr. President, the committee is composed of nine Members, six Democrats and three Republicans. One Republican decided to go with the Democrats, and that is why it was 7–2.

Mr. McGEE. Would the Senator agree that it would be equally fair to conclude that since the committee is split between Democrats and Republicans 2 to 1—6 to 3 is the same as 2 to 1 as—therefore, it would be fair to conclude that his own party is split by the same ratio on this matter, which is 2 to 1?

Mr. FONG. Two to one; yes.

Mr. McGEE. I thank the Senator.

Mr. FONG. Mr. President, there is no reason why we should not prohibit the solicitation or the giving of a contribution by one employee to the other when we have in this legislation which is before us on this floor, reported by the committee, a provision that the superior-subordinate relationship is such that the subordinate could not give a contribution to the superior and the superior could not solicit a contribution from the subordinate.

If that is so, by what stretch of the imagination do we say in this bill that it is all right for an employee who is not a superior to solicit another employee who is not a subordinate?

Here we have a relationship in which we can get down to cases. A situation in which we may have a superior, say Superior S. He is for Candidate X and his subordinate is Employee A. Employee A sees that Superior S is for Candidate X, and he knows that Superior S is the man who is going to decide whether he will be promoted, whether he will have a good job assignment; he will be a man who will say what his subordinate shall do.

So what does he do? What does he do as a logical human being? Is he going to fight his superior?

No, he does not. He goes out knowing what his superior wants. He goes out and solicits his fellow employees for political contributions because his fellow employees under this legislation can be solicited by him because he is not a superior to them.

Suppose we have another employee, Employee B, and we have Employee A doing this, trying to get on the good side of his superior, Superior S, by doing what his Superior S wants him to do?

What is this other employee, Employee B going to do, seeing that Employee A is soliciting contributions, so that Employee A will be favored by his superior?

Employee B, if he has any sense at all, will say, "Well, I have to do the same."

So it forces Employee B to do the same or suffer the consequences.

We know that Superior S need not ask Employee A to do that for him, to solicit Employee B, or Employee C, but knowing the circumstances, we have that kind of a situation.

This is the type of situation I am trying to get away from, in which pressure is brought upon the employee, whether the employee be his equal, his peer, to do things that he does not want to do.

My amendment will go to the heart of this so that an employee cannot solicit another employee.

My amendment also goes to the extent of saying that a political contribution also includes the ringing of doorbells and other "personal services." A superior in this legislation cannot tell a subordinate to do those things. But again, in a situation like that, Employee A knows what Superior S wants him to do. So he has been easily inveigled to go out and ring doorbells and pass literature just because he wants to get into the good graces of Superior S.

This is what I am trying to do, to keep them from using this kind of subtle political pressure on their employees. I ask that this amendment be approved.

Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER (Mr. GLENN). Is there a sufficient second?

There is not a sufficient second.

Mr. FONG. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. GARN. Mr. President, in approving Mr. FONG's amendments the Senate will go a long way in preserving the impartiality of our Federal work force. This work force, because of its very nature, should be impartial. It should not, in any way, be involved in the partisan political processes of our country. Our citizens, who are already submerged in Government regulations and paperwork, should not also be prevailed upon by a Government work force motivated by partisan politics. Without this amendment, the bureaucracy would be nothing less than a huge political machine, serving the needs and wishes of the party in power. It is very real that these employees would feel it necessary to keep those in power, in power, and those out, out.

Mr. President, let us discuss the central issue of this amendment, and the bill itself. What we are seeing here, by revising the Hatch Act, is nothing less than a power grab by the big unions to turn the Federal employees into a giant political machine. As one union leader put it, "If we can get this Hatch Act * * * bill into law, we can really get moving." Get moving where?

It is only too obvious where. Into the political process with such force that the Federal bureaucracy would be forever filled with political debts and deals making the impartiality of government a farce.

The Washington Star editorialized:

> Opening the federal service to partisan politics is almost sure to give union leaders more muscle. The Hatch Act tends to inhibit union activity by federal employees . . . It is no coincidence that the AFL–CIO, to which the biggest of the federal employee unions belong, is pushing strongly to remove the Hatch Act restrictions. George Meany and Company would love to be able to enlist or pressure the giant federal service into the AFL–CIO's political causes. The possibility would exist that union leaders, rather than elected officials and top career employees, would be calling the shots in the federal service.

Robert Hampton, Chairman of the Civil Service Commission, in testimony before the House Subcommitte on Employee Political Rights and Intergovernmental programs, said:

> And what of the employee caught in the switches because he believes administrations may change and is uncertain whether the promotion action will occur prior to election day in November or after inauguration day in January? Can we safely say that even the most enlightened administrator, faced with last-minute promotion decisions before leaving office, will not consider the partisan political activities of the employee which either sought to keep him in Washington or assisted in sending him home? History tells us we cannot.

Mr. Hampton goes on to say:

> If the opportunity to assert partisan political influence or power is available, it will be exercised. This seems to be the one void that someone is always willing to fill.
>
> (It is) . . . very plain that whatever political activity is permitted to federal employees will quickly become that which is required of them.

Very simply, what Mr. Hampton is saying is that where now there is no pressure, by lifting the restrictions, pressure could not only be exerted, but it would become a permanent part of the Federal employees' job. The choice of whether to work or not to work for a candidate or cause would not be based solely upon the individual's belief, but in the opportunities for promotion that lay ahead. So instead of performing for the public good, he would be performing in accordance with the political desires of his superior or union steward.

Now, I am sure, Mr. President, that proponents of this bill are downplaying the fears that my colleagues and I are raising today. The supporters of this bill are saying that we are exaggerating fears of pressure and reprisal that will result should this bill be enacted. Let us ask the thousands of Federal workers now in the civil service who responded to numerous surveys agreeing that pressure, coercion, or other subtle forms of influence by their superiors and union officials would take place if the Hatch Act restrictions were lifted.

Overwhelmingly, these Federal employees rejected any revision of the Hatch Act. Is not it the duty of the national legislator to, as accurately as possible, reflect the views of our voters into sound public policy? If those people directly involved in the civil service, from its Chairman down through the ranks, oppose tampering with the Hatch Act, then why act contrary to their desires?

Mr. President, the amendments to the bill which I am favoring would prevent corruption, political debts, and seamy deals in the bureaucracy.

The clear vision and bright light of impartiality in the Federal service must not be dimmed.

The amendments offered by Mr. FONG are responsible and clear visioned.

I strongly urge their adoption.

In conclusion, the administration has indicated that, unless these amendments are included in the final bill passed by this body, this piece of legislation will be vetoed.

Mr. FONG. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The question is on agreeing to Mr. Fong's amendment No. 1276. The yeas and nays are ordered, and the clerk will call the roll.

The second assistant legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from South Dakota (Mr. ABOUREZK), the Senator from Texas (Mr. BENTSEN), the Senator from New Hampshire (Mr. DURKIN), the Senator from Mississippi (Mr. EASTLAND), the Senator from Hawaii (Mr. INOUYE), the Senator from Washington (Mr. JACKSON), and the Senator from California (Mr. TUNNEY) are necessarily absent.

I further announce that, if present and voting, the Senator from Washington (Mr. JACKSON), and the Senator from New Hampshire (Mr. DURKIN) would each vote "nay."

Mr. GRIFFIN. I announce that the Senator from North Dakota (Mr. YOUNG) is necessarily absent.

The result was announced—yeas 38, nays 54, as follows:

[Rollcall Vote No. 55 Leg.]

YEAS—38

Allen	Garn	Pearson
Baker	Goldwater	Percy
Bartlett	Griffin	Proxmire
Beall	Hansen	Ribicoff
Bellmon	Haskell	Roth
Brock	Helms	Scott, Hugh
Bumpers	Hruska	Scott, William L.
Byrd, Harry F., Jr.	Laxalt	Stafford
Curtis	Long	Talmadge
Dole	Mathias	Thurmond
Domenici	McClellan	Tower
Fannin	McClure	
Fong	Nelson	
	Packwood	

NAYS—54

Bayh	Hart, Philip A.	Montoya
Biden	Hartke	Morgan
Brooke	Hatfield	Moss
Buckley	Hathaway	Muskie
Burdick	Hollings	Nunn
Byrd, Robert C.	Huddleston	Pastore
Cannon	Humphrey	Pell
Case	Javits	Randolph
Chiles	Johnston	Schweiker
Church	Kennedy	Sparkman
Clark	Leahy	Stennis
Cranston	Magnuson	Stevens
Culver	Mansfield	Stevenson
Eagleton	McGee	Stone
Ford	McGovern	Symington
Glenn	McIntyre	Taft
Gravel	Metcalf	Weicker
Hart, Gary	Mondale	Williams

NOT VOTING—8

Abourezk	Eastland	Tunney
Bentsen	Inouye	Young
Durkin	Jackson	

So Mr. FONG's amendment (No. 1276) was rejected.

Mr. McGEE. Mr. President, I move to reconsider the vote by which the amendment was rejected.

Mr. ROBERT C. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Several Senators addressed the Chair.

Mr. McGEE. Mr. President, I ask unanimous consent that Pam Weller, of Senator STONE's staff, be granted floor privileges for the duration of the consideration of this bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. McGEE. Mr. President, I announce for the benefit of Senators present that we are proceeding immediately to a second amendment proposed by our distinguished colleague from Hawaii that splits off a portion of the amendment we just voted on. We shall discuss that in a moment, and there will not be any protracted delay.

Mr. FONG. There will not be any protracted delay.

Mr. HUMPHREY. Mr. President, will the Senator yield?

Mr. McGEE. I will, indeed. Before we commence, I wish to make sure Members understand what is about to happen. There will be a rollcall vote on the second Fong amendment, and it will not be very many minutes away.

Mr. FONG. It should not be more than 15 minutes.

Mr. McGEE. Why does the Senator not ask for the yeas and nays while we have Senators present?

Mr. FONG. Mr. President, I ask unanimous consent that before I bring up my second amendment, I be permitted to ask for the yeas and nays.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. FONG. Mr. President, I ask for the yeas and nays on my second amendment.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. McGEE. Mr. President, I ask unanimous consent to yield to the distinguished Senator from Minnesota.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DOMENICI. Mr. President, will the Senator yield for a unanimous-consent request?

Mr. McGEE. I am glad to yield to our colleague.

Mr. DOMENICI. Mr. President, I ask unanimous consent that Mickey Barnett of my staff be granted floor privileges for the remainder of the discussion on this bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Wyoming has the floor.

Mr. McGEE. Yes. Our agreement regarding the procedure here is that the pending business will now be the second amendment by the Senator from Hawaii, and I assume that he will be recognized.

Mr. FONG. Mr. President, I shall first call up my amendment and then I will yield.

The PRESIDING OFFICER. The Senator from Hawaii is recognized.

AMENDMENT NO. 1275

Mr. FONG. Mr. President, I call up my amendment No. 1275.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Hawaii (Mr. FONG) proposes an amendment No. 1275.

Mr. FONG. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 4, strike out lines 3 through 6.

On page 4, line 7, strike out "(5)" and insert in lieu thereof "(4)".

On page 4, line 10, strike out "(6)" and insert in lieu thereof "(5)".

On page 6, strike out lines 4 and 5, and insert in lieu thereof the following:

"(3) knowingly give or hand over a political contribution to another employee; or".

On page 6, lines 10 and 11, strike out "with respect to whom such employee is a superior".

Mr. FONG. Mr. President, I yield to the distinguished Senator from Illinois.

Mr. PERCY. I thank the Senator.

Mr. President, I cannot in good conscience support H.R. 8617, which in my opinion would repeal much of the Hatch Act and would do great damage to our electoral process.

Frankly, I am surprised that such legislation is being seriously considered at this particular point in our political history. Surely the turmoil of Watergate has demonstrated that what we need is less, not more, partisan influence in the political process.

Since this legislation passed the House in October I have been reassured in my own convictions by hearing from literally thousands of Illinoisans on this issue. Ninety-five percent of those who have written are strongly opposed to repealing the protection presently afforded Federal employees by the Hatch Act. To their way of thinking, and to mine, this legislation, if enacted, will invite wholesale abuse of the Federal civil service by those within as well as without the Federal Government.

The point behind the present Hatch Act is to balance the need for an effective and impartial civil service with the need to preserve the basic rights of citizenship for Federal employees. I believe the Hatch Act as it stands is successful in striking a reasonable balance. I would certainly support changes in the law if Federal employees were in fact second-class citizens. But the facts do not bear out the allegation that present restrictions seriously infringe upon their rights of citizenship. They can run for office in nonpartisan elections, contribute money to political parties and candidates, and express opinions on political subjects privately and publicly. Specifically, I do not believe, as some argue, that Federal employees are being denied their first amendment rights. Nor did the Supreme Court, when in 1973 it upheld the constitutionality of the present law.

H.R. 8617 seeks to extend the opportunity for civil service employees to participate in politics, to allow them to run for political office on party ballots, raise money for political candidates and parties, and address party conventions and caucuses. I believe that to permit Federal employees to participate in this way would be to remove the effectiveness of the Hatch Act's protection for Federal employees from the political pressure of their superiors. The committee report states that the second of two purposes of this legislation is to prohibit the abuse of authority and the coercion of employees into nonvoluntary political activities of any kind. This is a laudable purpose. The Supreme Court stated in its 1973 decision that "the rapidly expanding Government work force should not be employed to build a powerful, invincible, and perhaps corrupt political machine."

Contrary to this intent, though, H.R. 8617 makes this result more rather than less likely. Without a prohibition on active forms of political activity, such as fund raising and running for office on a party ticket, employees are left to resist on their own the pressure, often subtle and hard to identify, of their employers. The bill sets up an elaborate mechanism to deal with such abuse and coercion by an employer. I see this as a clear indication that the authors of H.R. 8617 realize the difficulties inherent in monitoring such abuse and anticipate the violation of the new provisions.

The American people expect and deserve a merit, not a spoils system in Federal service. We must be diligent in insuring this. Although few would argue that the Hatch Act has been 100 percent effective, I am confident that an overwhelming majority of Americans support the basic intent of the act. I believe H.R. 8617 destroys those provisions of the act which make it successful in striking the balance between the opportunities for political involvement available to a citizen, and the need to insure an apolitical Federal service.

Mr. President, having lived in Cook County, Ill., all my life, having seen at both the county and the State levels the abuses wreaked upon employees of Government who are pressed into political service, who, in a sense, are coerced into making contributions out of their public payroll, and having seen the disastrous effect that this has had upon the two-party system, I certainly oppose H.R. 8617 in the strongest terms.

Again I say that I really cannot believe that the Senate of the United States, in the wake of Watergate, seriously would wish to move Federal employees in this direction in the electoral process.

Mr. FONG. Mr. President, I congratulate the Senator from Illinois for his excellent remarks. I know that he has been a student of the Hatch Act for a long time.

I agree with him that this bill is really a step backward, that it is not in the interests of the employees, nor is it in the

interests of the Government, if this bill is passed.

Mr. HUMPHREY. Mr. President, will the Senator yield?

Mr. PERCY. I yield.

SENATE CONCURRENT RESOLUTION 101—PROVIDING FOR ADDITIONAL COPIES OF THE 1976 JOINT ECONOMIC REPORT

Mr. HUMPHREY. Mr. President, I have asked the Senator to yield to me in order that I may bring up a resolution out of order, simply because of the time factor.

I send the resolution to the desk and ask for its immediate consideration.

The PRESIDING OFFICER (Mr. BAKER). The resolution will be stated by title.

The legislative clerk read as follows:

Resolved by the Senate (the House of Representatives concurring), That there shall be printed along with the original press run of the 1976 Joint Economic Report, five thousand additional copies for the use of the Joint Economic Committee.

The PRESIDING OFFICER. Is there objection to the present consideration of the resolution?

There being no objection, the Senate proceeded to consider the resolution.

Mr. HUMPHREY. Mr. President, I want the record to be clear. The distinguished Senator from New York, who is the ranking member on the committee, has agreed with me that this should be done. It has been cleared. It is a routine type of resolution.

Mr. JAVITS. Mr. President, will the Senator yield?

Mr. HUMPHREY. I yield.

Mr. JAVITS. I do agree, and I hope the resolution will be agreed to.

Mr. HUMPHREY. Mr. President, I ask unanimous consent to have printed in the RECORD a table as to costs which will be added.

There being no objection, the table was ordered to be printed in the RECORD, as follows:

TITLE—JOINT ECONOMIC REPORT (SENATE REPORT 94–690)

238 pages & cover (4 color charts) Additional 1000 copies	$722.50

The PRESIDING OFFICER. The question is on agreeing to the resolution.

The resolution (S. Con. Res. 101) was agreed to.

FEDERAL EMPLOYEES' POLITICAL ACTIVITIES ACT OF 1975

The Senate continued with the consideration of the bill (H.R. 8617) to restore to Federal civilian and Postal Service employees their rights to participate voluntarily, as private citizens, in the political processes of the Nation, to protect such employees from improper political solicitations, and for other purposes.

Mr. FONG. Mr. President, H.R. 8617 prohibits political solicitations only by a superior seeking contributions from those he supervises. The amendment I am proposing, No. 1275, would prohibit an employee from giving or soliciting a political contribution to any other employee, whether the receiver is a superior or not. It is a very limited version of the previous amendment—amendment No. 1276—as it does not include "personal services" as a political contribution. This amendment is to prevent coercion or political pressure by one employee against another.

In testimony during hearings before the Senate Post Office and Civil Service Committee, Carl Goodman, the General Counsel of the Civil Service Commission, adamantly opposed section 7324 of the bill because it would permit employees to solicit and receive political contributions from one another, so long as no superior-subordinate relationship exists and so long as it is not accomplished on the job. To make matters worse the bill has another provision which would amend the current criminal statutes so that such an exchange of contributions would no longer be punishable as a crime. Mr. Goodman contended that this would in fact permit the subtle coercion of Federal employees to contribute to political campaigns against their will and contrary to their own personal political convictions without any meaningful recourse.

"In our opinion," Mr. Goodman said, "the inherent dangers in permitting employees to exchange political contributions with one another should be obvious." Then he proceeded to emphasize his point with a hypothetical situation. Although I cited this illustration when I offered my previous amendment, I would like to repeat it now because it is also directly relevant to the amendment we are now discussing.

Here again is the hypothetical situation as given by Mr. Goodman:

A "superior" is known to be actively campaigning for candidate "X". One of his or her subordinates, who is generally known to be personally close to the superior, or who is known to be the superior's "right-hand man," but is not superior to other employees within the definition set forth at § 7322(4), approaches other employees in front of the building, or in the parking lot, or at their individual residences, and solicits contributions for candidate "X". Those employees so solicited must decide if it is expedient for them to either contribute or decline to contribute, being aware of the possibility that the superior may learn whether or not a contribution was made. They would also be aware that it would be extremely difficult, if not for all practical purposes impossible, to prove that any particular employee is promoted, or passed over for promotion, because he or she made a political contribution or failed to make a political contribution. There is no evidence to indicate that the superior instructed or even suggested to the subordinate that contributions should be solicited. Even if that had occurred, it is unlikely that such evidence could be obtained, since the subordinate would not be in violation by soliciting and would have no reason to implicate the superior."

Mr. Goodman believes that such a situation as described in the hypothetical situation cannot arise today since the superior cannot be actively campaigning or even if he could, his "right-hand man" could not be engaged in solicitation or other political management.

In Mr. Goodman's opinion, a case such as the one he illustrated could not be successfully prosecuted under H.R. 8617. His opinion on this matter should carry a great deal of weight, since he is the Civil Service Commission's chief enforcement officer of Hatch Act cases coming before the Commission.

I completely agree with Mr. Goodman that employees should not be permitted to be involved in soliciting or receiving contributions for partisan political purposes.

Another case: Employee A is aware of a vacancy which will be a promotion for him. He also is aware that the person who will make the selection—call him his superior S—is actively supporting a particular candidate. Add to that the fact that employee B, who will be in competition for the vacancy, has contributed to support S's candidate and he is also busily soliciting monetary contributions from his fellow employees. Employee A now must make a decision as to what he must do to equalize the efforts of employee B. Can he really afford not to contribute to S's candidate? Can he really afford not to get busy and solicit monetary contributions from his fellow employees?

Suppose he does not like S's candidate. Can he really afford to make a contribution to the opponent of S's candidate? Can he really afford to solicit his fellow employees in behalf of the candidates S opposes? The answer is obvious: he will be forced, if he has any commonsense, to go with his superior, because that is where his promotion lies.

These two situations, Mr. President, are the type of quandary we are putting our Federal employees in when we allow them to solicit their fellow employees or allow them to be solicited by their fellow employees.

Therefore, I strongly urge the adoption of my amendment.

Mr. McGEE. Mr. President, I want to say very quickly, so as not to delay proceeding with the rollcall on this amendment, that this second amendment is woven of the same cloth as the preceding amendment in that it keeps the most serious and negative parts. What was dropped out of the first amendment was the lesser of the considerations at stake, and in behalf of the 7-to-2 majority of the committee which voted on the bill, I would have to represent that committee position, by saying that we also strongly oppose this second amendment.

With all due respect, I must remind my colleague, as he ticks off case A and case B and case S, that he curiously left out case M.

"M" stands for Malek. Now, neither party was proud of the Malek operations under the existing Hatch Act. This is not a monopoly of any one political party. The Democrats have done it, too, on earlier occasions.

The point is that this bill puts the finger where it belongs. The point is that the abuses of the Hatch Act come from the top down. They have not been generated from the bottom up.

Yet what this pending amendment would do is seek to babysit Federal employees as though they are children; as though they are not entitled to be first class citizens but instead are immature public individuals with no sense of the responsibilities of citizenship.

The bill that is pending contains provisions which prohibit the coercing of any employee by his superior—no coercive solicitation. It bars solicitations by administrators above, and it bars involuntary solicitations by anybody at any level.

It makes it illegal for any person to extort a political contribution in any form for any reason, and the penalties for doing that are made much more severe by the measures in this bill.

What the bill does not do, and this is important: it does not shut off or wipe out voluntary political activity among employees as private citizens, off the premises and off the job. So if their job ends at 5 p.m. and they want to go out and work politically in the evening, on their own, because they believe in a local Democrat or a local Republican running for county commissioner or running for the State legislature, or running for some other higher office, they ought to have the option, as responsible citizens to do just that. That is what this bill says.

For these reasons, I am compelled to oppose my colleague's amendment. I would recommend that the Senate, after voting down the first of the Senator's amendments, follow the same pattern in rejecting this one, because it is in effect part of that same amendment.

Mr. FONG. Mr. President, the distinguished Senator makes a strong point concerning the coercive prohibition under the bill which is before us. Under the present Hatch law, there is absolutely no solicitation by a Federal employee allowed, so there was no need for this prohibition against coercion. If we allow this to go on—that is, a solicitation of one employee by the other—we will be opening this wide open to the same kind of WPA solicitation which really brought on the Hatch Act. The Sheppard committee had an extensive investigation of this situation in 10 States and found that this was very, very prevalent, that WPA workers were fired and hired, because of their contribution or noncontribution to the political cause, and we will be going right back to that.

This bill which is before us recognizes the superior-subordinate relationship. It says that a superior cannot solicit from a subordinate. If a superior cannot solicit from a subordinate, why is it not just as bad for a subordinate to be solicited from a subordinate, when he knows that his superior is backing a candidate and he wants to get into the good favors of that superior? This amendment of mine prohibits this employee from doing just that.

Mr. McGEE. Mr. President, I shall have to add to my colleagues' comments that it would come, I think, as a rather startling revelation to the thousands upon thousands of career public employees in the Federal Government that their role may be likened to that of a WPA laborer during the depression.

The Senator is right in reminding us that out of those depression days, when much of America collapsed, there was built up a great dependence on any kind of work. The attempt was to try to restore human dignity in the process, and a part of that process was also in many cases, to try to collect political dues of some sort. But I should regret it if any suggestion emerged from this colloquy that would indicate that Federal employees today are in any way identifiable with the WPA days.

We have the Hatch Act to prevent the abuses of the WPA days. Today we have a professional group of career people who are dedicated to public service. But they are also citizens of the United States of America and, perhaps it is fitting that we should recognize that in a Bicentennial Year such as this.

All we are asking, Mr. President, is that they not be denied the same options and opportunities, outside of the possible areas of abuse, as other citizens. That they have the right to run for local office or other higher office for which they might think they are eligible. That they have the right to participate in political activity off the job and off the premises.

It seems to me it behooves us to make certain that these career people who must be judged on the basis of their career performance need also to be judged as mature, responsible citizens.

This bill protects them from abuse and it protects them from any involuntary activity that anyone in his misguided notion might attempt to impose. We also seek to protect the voluntary decision on the part of an adult citizen to indulge in political activity as a citizen off the job and off the premises.

Mr. FONG. Mr. President, I do not wish to suggest that our Federal employees, who are very, very fine workers, are WPA workers. I just want to say that the Hatch Act was the result of the excesses of financial coercion of WPA workers who were only making 30 cents an hour. All of you who know anything about WPA work know they were paid only 30 cents an hour, 8 hours a day, $2.40 a day. Even though they made only $2.40 a day, they were pressured by these superiors, these bosses, to contribute to the campaign of candidates.

Now, the distinguished chairman makes a point that the bill protects Federal employees. Let me point to the fact that the National Federation of Federal Employees, headed by Mr. Wolkimir, with a membership of 136,000 members, had a survey as to what they wanted to do with the Hatch Act.

Eighty-nine percent of the members who responded said they were strong in support of the present Hatch Act; only 10 percent wanted minor changes, and only 1 percent advocated repeal.

This bill which is before us is advocating repeal of the heart of the Hatch Act, and let us not be fooled by that, by the prohibition against coercion.

We have another case in point. We have another example of what the Federal employees are thinking about. Representative FISHER, who has the most Federal employees, outside of the District of Columbia, found that of the one-third to 40 percent of his constituents who are Federal employees, indicated, and he reported, that 59 percent were against changing the Hatch Act, out of a total of 20,000 responses. His mail showed that civil service employees who want the status quo outnumbered others 8 or 10 to 1.

Representative GILBERT GUDE, who has the second greatest number of Federal employees in his district, says that his mail reflected the same type of opposition to the repeal of the Hatch Act as his colleague, Congressman FISHER.

Representative HOLTZMAN, Democrat of New York, says her poll shows there was a 2-to-1 vote against weakening the Hatch Act, according to her questionnaire.

According to the career civil service members of the Federal Executive Alumni Association, only 2 out of 3,000 members polled wanted the Hatch Act changed.

In 1966, when the survey was made by the Michigan University survey team, only 3 percent said they wanted the Hatch Act repealed.

So you see, Mr. President, there is strong opposition by the Federal employees themselves to having this act changed. I think we are doing a great disservice to the Federal employees by allowing them to be able to solicit from their fellow employees monetary contributions or whatever contributions may be asked for any candidate.

I think this amendment of mine is a good amendment. If we prohibit superiors from soliciting from their subordinates, why can we not prohibit an employee from soliciting another employee?

Mr. McGEE. Mr. President, I shall only take 2 minutes, because both of us are eager to move onto the rollcall vote on this amendment. I would like to say that my colleague has used again a word that has been employed over and over to alarm public employees. The word is "repeal."

Nobody is repealing the Hatch Act. We are upgrading and modernizing it before it is wiped out, because of the way it is abused. It is imperative that the Hatch Act, with its protection of an employee against solicitation or abuse or fear of something that his superiors may seek to extract from him, does not go by the board. This pending measure intends to make sure that such a thing does not happen.

What do the public employees think about the bill? It often depends upon whether they have heard scare stories about repealing the Hatch Act, for one thing. Of course, they oppose repeal. I oppose repeal, and it is time we quit permitting that word to enter the lexicon of those who discuss this bill.

I ask unanimous consent to have printed in the RECORD a list that is longer than I would have time to read. It is a list of a cross section of Americans who endorse the substance of the pending measure.

There being no objection, the listing was ordered to be printed in the RECORD, as follows:

PARTIAL LISTING OF ORGANIZATIONS IN SUPPORT OF FEDERAL EMPLOYEES' POLITICAL ACTIVITIES ACT OF 1975—HATCH ACT REFORM

A. Phillip Randolph Institute, Cleveland, Ohio.

American Civil Liberties Union.

American Federation of Government Employees.

American Postal Workers Union.

Americans for Democratic Action, Greater Washington Chapter.

Association of Civil Technicians (National Guard).
International Association of Firefighters.
International Conference of Police Associations.
Laborers International Union of North America.
Montgomery County (Maryland) Congressional Watch.
National Alliance of Postal and Federal Employees.
National Association for the Advancement of Colored People.
National Association of Government Employees.
National Association of Letter Carriers.
National Association of Postal Supervisors.
National Association of Retired Federal Employees, St. Louis, Mo.
National Association of Social Workers.
National Post Office Mailhandlers Union.
National Rural Letter Carriers Association.
National Treasury Employees Union.
New Democratic Coalition.
New York Criminal and Civil Courts Association.
New York Law Journal.
Prince George County (Virginia) Civic Association
Professional Air Traffic Controllers Organization.
Public Employees Department, AFL–CIO.
Radio Station WMAL, Washington, D.C.
Southern Christian Leadership Conference.
Teamsters Joint Council 13, St. Louis, Mo.
Washington Teachers Union, American Federation of Teachers AFL–CIO.
Women's Political Caucus, District of Columbia.

Mr. McGEE. As far as I am concerned, I am ready to proceed.

Mr. FONG. I just want to say this word. What are we trying to correct? The distinguished chairman says we are trying to correct the abuses. Now, where is the abuse as far as political management is concerned? Where is the abuse about collecting money? There has been no showing of any abuse before our committee. There has been no showing of any abuse in the management of political campaigns.

This bill before us is to change the heart of the Hatch Act. It does not repeal it technically but, in substance, it does repeal the heart of the Hatch Act because it says you can get into politics now and you can solicit money, which is now prohibited.

The PRESIDING OFFICER. Is all time yielded back?

Mr. McGEE. There is no time to yield back except our good intentions, and we both have good intentions, Mr. President.

The PRESIDING OFFICER. The yeas and nays have been ordered. The question is on agreeing to the amendment of the Senator from Hawaii. The clerk will call the roll.

The legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Texas (Mr. BENTSEN), the Senator from New Hampshire (Mr. DURKIN), the Senator from Mississippi (Mr. EASTLAND), the Senator from Hawaii (Mr. INOUYE), the Senator from Louisiana (Mr. LONG), and the Senator from California (Mr. TUNNEY) are necessarily absent.

I further announce that, if present and voting, the Senator from New Hampshire (Mr. DURKIN) would vote "nay."

Mr. GRIFFIN. I announce that the Senator from Vermont (Mr. STAFFORD), and the Senator from North Dakota (Mr. YOUNG) are necessarily absent.

The result was announced—yeas 38, nays 54, as follows:

[Rollcall Vote No. 56 Leg.]

YEAS—38

Allen	Garn	Percy
Baker	Goldwater	Proxmire
Bartlett	Griffin	Ribicoff
Beall	Hansen	Roth
Bellmon	Haskell	Scott, Hugh
Brock	Helms	Scott, William L.
Buckley	Hruska	Taft
Byrd, Harry F., Jr.	Laxalt	Talmadge
Curtis	Mathias	Thurmond
Dole	McClellan	Tower
Domenici	McClure	Weicker
Fannin	Morgan	
Fong	Packwood	
	Pearson	

NAYS—54

Abourezk	Hart, Gary	Metcalf
Bayh	Hart, Philip A.	Mondale
Biden	Hartke	Montoya
Brooke	Hatfield	Moss
Bumpers	Hathaway	Muskie
Burdick	Hollings	Nelson
Byrd, Robert C.	Huddleston	Nunn
Cannon	Humphrey	Pastore
Case	Jackson	Pell
Chiles	Javits	Randolph
Church	Johnston	Schweiker
Clark	Kennedy	Sparkman
Cranston	Leahy	Stennis
Culver	Magnuson	Stevens
Eagleton	Mansfield	Stevenson
Ford	McGee	Stone
Glenn	McGovern	Symington
Gravel	McIntyre	Williams

NOT VOTING—8

Bentsen	Inouye	Tunney
Durkin	Long	Young
Eastland	Stafford	

So Mr. FONG's amendment (No. 1275) was rejected.

Mr. McGEE. Mr. President, I move to reconsider the vote by which the amendment was rejected.

Mr. STONE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 1277

Mr. FONG. Mr. President, this amendment will not take too long. I call up my amendment No. 1277, and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Hawaii (Mr. FONG) proposes an amendment numbered 1277:

Mr. FONG. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. Fong's amendment (No. 1277) is as follows:

On page 6, line 11, strike out "or".

On page 6, line 21, strike out the period and insert in lieu thereof a semicolon and "or".

On page 6, between lines 21 and 22, insert the following new subparagraph:

"(C) from another employee (or a member of another employee's family) with respect to whom such employee is a union official."

Mr. FONG. Mr. President, I ask for the yeas and nays on the amendment.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. FONG. Mr. President, I ask unanimous consent that Senator DOLE's legislative assistant, Bob Downen, may have the privilege of the floor during the consideration of and voting on H.R. 8617.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. FONG. I now yield to the Senator from Arizona.

Mr. FANNIN. Mr. President, I ask unanimous consent that Judi Ford of my staff be given floor privileges during the consideration of and voting on H.R. 8617.

The PRESIDING OFFICER. Without objection, it is so ordered.

HATCH ACT REPEAL: SECOND CLASS NONSENSE

Mr. FANNIN. Mr. President, the Hatch Act was originally passed in 1939 as a result of nefarious political activities which were uncovered during previous election campaigns. Now the Congress is being asked to repeal the provisions of this law which are designed to prevent corruption and coercion of Government employees.

As my colleagues are aware, Federal civil service employees are "hatched", that is, they are prevented by law from engaging in certain political activities and making political contributions in an election campaign. The essential purpose of the Hatch Act is to prevent the use of Federal bureaucrats in political election campaigns at taxpayers' expense, without their approval. In addition, that law is designed to preserve the political independence of civil servants so that political pressures will not keep them from engaging in the public interest. It would also prevent a situation where elected officials would be beholden to Government employees for support. In light of the recent lobbying efforts of many bureaucrats and public employee unions in behalf of government pay raises, I can foresee tremendous problems for the country if the Hatch Act is now repealed.

In its opinion upholding the constitutionality of the Hatch Act, the Supreme Court stated that its decision:

. . . would no more than confirm the judgment of history, a judgment made by this country over the last century that it is in the best interest of the country, indeed essential, that federal service should depend on meritorious performance rather than political service.

Mr. President, this statement, expressed so eloquently by the Court, sums up my position against repeal or relaxation of the prohibitions on political activity by civil servants embodied in the Hatch Act.

Those who would change the law contend that Federal civil servants are being treated as "second-class citizens" because they cannot engage in politicking to the same extent as private employees. In my opinion, this argument is "second-class nonsense."

Under the law, Government workers have the same right to register and vote as anyone else. They are free to express their political preferences and to support the candidate of their choice, even with financial contributions, if they so desire.

In short, the Hatch Act does not in any way restrict the franchise of Government employees. They can be as politically outspoken as anyone else. And anyone who thinks that there is no politicking done in the civil service is naive.

As Howard Flieger stated recently in U.S. News & World Report:

Nobody argues that the Hatch Act is perfect. But it does effectively prevent that which it was designed to prevent: It makes certain that no candidate or party can convert the huge federal bureaucracy into a political machine.

The Act has sheltered the rank and file from any spoils system of patronage rewards for the party faithful. No office holder can go through the government hiring and firing at will on the basis of politics. No one can tell civil service employees how to vote, and keep them in line with threats of pay day reprisals.

They cannot be coerced into party work. They cannot perform the nuts-and-bolts jobs of a campaign such as soliciting funds, manning headquarters telephones or serving as chauffeurs to ferry the voters to the polls on behalf of any ticket.

Does this make them second-class citizens? Hardly. The odds are that those public servants who are sincerely interested in Government performance—and that means the vast majority of them—welcome the shield that stands between them and party affairs . . .

Congress felt safeguards against politicizing the bureaucracy were prudent back when federal employees were counted in the "hundreds of thousands."

It is difficult to follow the reasoning of those who argue such insurance is no longer needed—now that the number of Government workers (not counting the military) has grown to more than 2.5 million.

It is evident that the proponents of repeal are substantially motivated by political considerations. The Hatch Act has worked well since its adoption, and the civil service today remains untarnished by the taint of corruption. There is obviously no pressing need to change the law. Polls have indicated that the people do not favor a change. Only certain segments of organized labor, specifically the American Federation of Government Employees and the National Association of Letter Carriers, are pushing for Hatch Act reform. I find myself in agreement with the largest independent union of Government workers, the National Federation of Federal Employees, which predicts that changes in the act will result in political abuses and seriously harm the merit system in government.

Mr. President, the Hatch Act is worth keeping. As the editor of the Phoenix Gazette pointed out:

Letting federal workers be political activists would, in effect, set up a special class of citizens in a position to exercise more power in and over the government than the now second-class citizens—those not employed by the government.

I agree with the opinion of the Arizona Republic's, another Arizona newspaper, that it "will be a sad day for—the 2.5 million workers on the Federal payroll—if union bosses are given a green light to browbeat them into furthering the bosses' political aims."

Mr. President, I ask unanimous consent that the complete texts of two editorials from the Phoenix Gazette of June 27, 1975 and the Arizona Republic of November 2, 1975 be printed into the RECORD.

There being no objection, the editorials were ordered to be printed in the RECORD, as follows:

[From the Phoenix Gazette, Jan. 27, 1975]

HATCH ACT IS WORTH KEEPING

Considering how much the government is withholding from paychecks, we are all working for Washington, at least a lot of the time. But only (only!) 2.5 million of the total population are bonafide federal employes and therefore subject to the Hatch Act, which restricts political activities.

Congress is giving the Hatch Act the hardest look it has had in eight years, mainly under pressure from the AFL-CIO, which has three affiliated unions with "Hatched" members.

But not all unions are in favor of being unhitched from Hatch. "This is nothing more than the old AFL-CIO pitch for muscle and power," charges Nathan Wolkomir, president of the National Federation of Federal Employes. "It's a move for money and more organizing influence." Wolkomir says the AFL-CIO leaders want the Hatch Act restrictions lifted so that they can use the unions' membership as "a power base from which they can control the federal government."

Passed in 1939 to protect New Deal employes from political exploitation, the Hatch Act prevents government employes—including postal workers, the largest single group—from canvassing voters, raising funds, driving voters to the polls, and from running for major office.

Defenders of the Hatch Act say that, in addition to protecting employes from coercion (for example, being forced to buy fund-raising dinner tickets), it limits the possibility of an employe's political views interfering with public work; it prevents the party in power from using the civil service as a political machine, thus inviting a return to the spoils system, and it sustains public confidence in the impartial administration of the people's business.

Opponents argue that repeal of the Hatch Act "will raise federal and postal workers from their present second-class citizenship to first-class, where they belong."

There is something to be said for this argument, but it is outweighed by the drawbacks to repeal. Letting federal workers be political activists would, in effect, set up a special class of citizens in a position to exercise more power in and over the government than the new second class citizens—those not employed by the government.

Congress would be well advised to resist relaxing the Hatch Act.

[From the Arizona Republic, Nov. 2, 1975]

GUTTING THE HATCH ACT

Congress passed the Hatch Act in 1939 to prevent the Roosevelt administration from converting the federal bureaucracy into a gigantic political machine as the big-city bosses of those days had converted city bureaucracies into political machines.

The act forbids federal workers to solicit political campaign contributions from other federal workers, to use their offices for political purposes, to take an active part in the management of a political campaign, and to run for public office.

The whole idea was to protect federal workers from political coercion by their superiors.

Organized labor by and large supported passage of the act, but times have changed. Federal workers were not unionized then; they are now.

The same act that protects them from political coercion by their superiors has come to protect them from political coercion by union bosses.

Naturally, the powers-that-be in the AFL-CIO will have none of that. So they have launched a campaign to disembowel the act, in effect, to repeal it

They say the act makes federal workers "second-class citizens."

Of course, it does nothing of the kind.

All it does, as the Supreme Court said in 1973 in upholding the constitutionality of the act, is prevent "the rapidly expanding government work force (from being) employed to build a powerful, invincible and perhaps corrupt political machine."

Nothing in the act prevents a federal workers from making a voluntary contribution to a political candidate and from talking him up among his friends and neighbors.

Nor does the act inhibit unions of federal workers from engaging in political activity.

On the contrary, the unions were on Capital Hill working overtime when the bill to gut the Hatch Act came before the House. And partly because of this, the House passed the bill by a thumping 288 votes to 119.

We hope the Senate shows better sense. If not, House Minority Leader John Rhodes says he will urge President Ford to veto the bill.

There are 2.5 million workers on the federal payroll. It will be a sad day for them and for the nation if union bosses are given a green light to browbeat them into furthering the bosses' political aims.

Mr. FANNIN. Aside from partisan considerations involved in this legislative debate, Mr. President, there are a number of very important issues which need to be discussed. I would like to advance several arguments in defense of the Hatch Act and against its amendment or repeal.

First of all, the act effectively prevents corruption and coercion of public employees. Without its restrictions, the civil service would be subject to bribery, graft, kickbacks in exchange for jobs, and various forms of political coercion, such as threats to penalize employees who refuse to engage in political activity or attend political rallies.

In addition, the act has insured efficiency and productivity on the part of civil servants. In order to maintain professionalism in the bureaucracy, the civil service must be divorced from partisan politics. Its achievements will be impaired if its employees are permitted to engage in political activity.

Finally, I believe that a strong civil libertarian argument can be made in defense of the Hatch Act. Those who argue that the act unjustly discriminates against civil servants because they are deprived of basic political rights enjoyed by workers in the private sector overlook the fact that Government employees also have a right to be free from political coercion.

Most importantly, the first amendment rights of the people must be preserved. To abolish Hatch Act restrictions is to impose regulations on the free market of ideas. The Government must restrict itself by precluding its employees from partisan political activity. The monopoly of power vested in the Federal Government and access to it by Government employees warrant restraints on the Government and on its workers so that that power is not abused to the people's detriment.

Mr. President, the distinguished attorney, Mr. John R. Bolton, has written an excellent monograph for the American Enterprise Institute for Public Policy Research entitled "The Hatch Act: A Civil Libertarian Defense." I wish to quote from Mr. Bolton:

The Hatch Act is, in effect, a case of the government restraining itself. Non-governmental employees have similar First Amendment rights—the right not to have their freedom to engage in political activity "chilled" by political activists who also administer government programs and regulatory or law-

enforcement agencies. As Professor Meiklejohn asserted: "The First Amendment does not protect a 'freedom to speak.' It protects the freedom of those activities of thought and communication by which we 'govern'. It is concerned, not with a private right, but with a public power, a governmental responsibility." The most acute government responsibility is that government not allow itself to skew the political process. The political debate can never be "uninhibited, robust, and wide-open" if government employees can coerce their colleagues or intimidate the general public. When viewed as an inhibitor imposed on the government itself, the Hatch Act is as justifiable as other restrictions—judicially or legislatively created—that prevent the government from regulating the "free market" of ideas.

Mr. President, for these reasons, I oppose any repeal or amendment of the Hatch Act. I urge my colleagues to consider the civil libertarian arguments against such repeal or amendment. I shall vote against H.R. 8617, and I urge my colleagues to do the same.

I thank the Chair, and I thank the distinguished Senator from Hawaii.

Mr. FONG. Mr. President, will the Senator yield?

Mr. FANNIN. I am pleased to yield.

Mr. FONG. I thank the distinguished Senator for a very excellent statement.

In relation to the question of second-class citizenship, I wish to state that the Commission on Political Activity of Government Personnel, which was authorized by Congress in 1966 and on which there were 12 very distinguished Members, two from the House of Representatives and two from the Senate, and other very distinguished citizens from the community, reported that they had two purposes in their discussion of this problem, and I shall read what they said:

"The overriding problem confronting this commission was to accommodate and reconcile two vitally important but sometimes competing objectives. On the one hand, in our democratic society, it is important to encourage the participation of as many citizens as possible in the political processes which shape our Government; all citizens must have a voice in the affairs of Government. On the other hand, it is equally important to assure integrity in the administration of governmental affairs and the development of an impartial Civil Service free from partisan politics.

"The Commission finally came to the conclusion that integrity in the administration of governmental affairs superseded the first amendment argument and that when they submitted a proposed bill to Congress, this proposed bill prohibited a Federal employee in section (c) as follows:

"A Federal employee is prohibited from (1) either directly or indirectly soliciting, receiving, collecting, handling, disbursing, or accounting for assessments, contributions, tickets, or other funds for political purposes, except any activity, participation, contribution, or other service of value. . . .

And then it goes on further and prohibits activities such as becoming a candidate or campaigning for or holding elective office if the office sought is an office of the United States or any office of any State or any other office including local offices, except as local offices is defined; managing a campaign for any candidate seeking elective office if the office sought is an office of the United States, or any office of any State, or any local office, except those permitted by the provisions of section 1623 of this chapter.

This Commission was a very hard-working group that took over a year discerning what the real sentiment in this country was. It held meetings and hearings in six cities, and heard 90 witnesses. This Commission had a survey made by the University of Michigan survey group that asked employees how they felt about the situation, finally arrived at a draft of a proposed bill in which it stated that there should not be any solicitation of funds, and Government employees should not be allowed to campaign for political offices on the Federal level.

So, I commend our colleague from Arizona for his very fine statement, and I call this to his attention.

Mr. FANNIN. I thank the Senator. I express my appreciation and the thanks of the State of Arizona.

We are very cognizant of the excellent services being performed by the distinguished Senator from Hawaii in bringing to the Members of the Senate the facts regarding this particular piece of legislation. He is being protected as a Federal employee. He is dedicated to carrying through what he knows is proper as far as the Federal employee is concerned. It is a disservice to the Federal employee if we do go through with these repeals.

As he has brought out, the largest union that is involved is opposed to the legislation under consideration and is very much in favor of the position of the distinguished Senator on this legislation.

So I commend him for forthrightly bringing to our attention and to the attention of his colleagues in the Senate exactly what is involved and the true picture that we have to face as far as this legislation is concerned.

Mr. FONG. Mr. President, the distinguished Senator from Arizona has referred, I believe, to the National Federation of Federal Employees which conducted a survey of its approximately 136,000 members. The response was 89 percent wanted the Hatch Act unchanged, and only 1 percent wanted repeal of the act.

There was a survey made by Congressman FISHER, whose constituency is comprised of approximately one-third to 40 percent Federal employees, and he says that he received 20,000 responses, and of the 20,000 responses, 59 percent were against any change of the Hatch Act.

Mr. FANNIN. Those are very impressive statistics and bring out exactly what the distinguished Senator from Hawaii has been stating continuously in the Chamber.

Mr. FONG. Representative GILBERT GUDE, who has the second largest number of Federal employees outside of that of Congressman FISHER and outside of the Washington, D.C. area, states that his mail reflected constituent sentiment similar to those reported by Congressman FISHER in his district.

Then, we have the survey of Representative ELIZABETH HOLTZMAN, Democrat of New York, who said that responses by constituents to her questionnaire were 2 to 1 against weakening the Hatch Act.

We have the analysis of the members of the Federal Executive Alumni Association who were polled—3,000 of them—and only two members of the 3,000 polled wanted the Hatch Act changed.

In the survey made by Michigan University in 1966, only 3 percent of the Federal employees interviewed wanted the Hatch Act repealed. It was a very scientific survey. It started with a statistical sample maintained by the Civil Service Commission of every Federal employee whose social security number ended in 5—a 10th of all Federal employees. From approximately 167,000 entries on magnetic tape, the survey team drew a sample of 1,108 Federal employees who were interviewed at work during July and August 1967. The result was a survey of 980 Federal employees' opinions about the Hatch Act. The survey allows generalization on a statistical basis to 1,641,190 Federal employees.

When asked whether it would make any difference if they were allowed to do more things in politics, 79 percent of those interviewed in the survey said they would not do anything more than they had been doing.

Mr. FANNIN. The Senator has provided some very impressive statistics pointing out that we are not following the will of the Federal employees when we try to take action that they oppose.

I think it would be wrong for us to go forward with the changes that are in the bill now before the Senate. I commend the Senator from Hawaii for trying to correct the inequities in the bill. I certainly support him in that regard.

Mr. FONG. That is why I agree with the distinguished Senator from Arizona that the bill before the Senate is a great disservice to the Federal employees.

Mr. FANNIN. I thank the Senator.

Mr. FONG. Mr. President, this amendment, No. 1277, is intended to protect the employee from coercion to contribute by union officials.

H.R. 8617 would prohibit a superior from soliciting a political contribution from a subordinate. But it would not prohibit one Federal employee from soliciting another for political funds so long as one employee is not the other employee's supervisor and the solicitation is not done on the job.

Even though a superior-subordinate relationship may not exist in the case of union officials, there are inherent dangers in permitting employees who are union officials to solicit political contributions from other employees

Take the example of a union shop steward who is not the supervisor of a group of employees. At a union meeting, he approaches members who are Federal workers and tells them, "Come on, fellows, let us kick in."

There is no blatant coercion here, but the fact that he is a union man representing them in negotiations, or doing favors for them, puts the shop steward in a position of influence. It is safe to assume that many if not most of the other Federal employees will listen to

him, and contribute, even though it may be against their will to do so.

Because of their key contact positions, shop stewards and other union officials can bring a great deal of pressure to bear upon union members. If it is improper for a superior to use his position to solicit a political contribution, it is equally or even more improper for a union official to do so. It is not difficult to conceive of a union official, representing the collective power of his labor organization, having a greater coercive force on an employee than the employee's superior.

The amendment I propose would prohibit union officials from engaging in solicitation of contributions for partisan political purposes.

When we speak of unions and of those represented by unions, it is important to consider how many people we are talking about in the Federal service. Unions representing Federal employees have grown by leaps and bounds in the past few years. For example, in 1963—the earliest data available—180,000 Federal employees were represented by unions. In November 1974—just 11 years later—the number of Federal employees represented by unions had jumped to 1,142,419, an increase of more than six times as many Federal employees represented by unions in an 11-year period.

Today, nearly one of every six American workers receive their paychecks from governmental agencies, and the number of public employees paying union dues exceeds the entire public payroll of 30 years ago.

With increased numbers comes increased power. This bill, in large measure, is an attempt by some unions to increase that power even more—not only with respect to its own membership, but also with respect to the U.S. Congress.

Nathan T. Wolkomir, president of the largest independent union of career employees—the widely respected National Federation of Federal Employees—said:

> There is no question in my mind that this is a further attempt by the AFL–CIO to have terrific political impact on the Hill.

And John McCart, head of the AFL–CIO's public-employee section, agrees, when he said:

> I suppose that to the extent we make our people more aware of the political process, you could say that we could acquire more political clout. But what's wrong with that? Our union's whole history is related to politics.

And so, if the AFL–CIO has its way, unions will soon be engaged in exacting political favors from union members in the Federal service.

Our Nation's history, though, shows that politics should have no place in the impartial administration of Federal law—no place in the Civil Service—regardless of the AFL–CIO desire to open the public service to unrestricted political activity.

Employees do not want this or any other change in the Hatch Act. Mr. Wolkomir testified that his union, the NFFE, conducted a poll of its members which showed 89 percent expressing strong support for continuing the act "as is." At its 1974 convention, NFFE unanimously adopted a resolution "that the NFFE continue to vigorously oppose efforts to weaken the protection provided by the Hatch Act."

Back in 1939, when the Hatch Act was enacted, public employee unions were not the large, powerful organizations they are today. Their rapid growth, in size and strength, has made the Hatch Act more important today. If the Hatch Act was necessary to stop and prevent further coercion of employees by supervisors on a wide scale in the 1930's, it is even more necessary today to protect Federal employees from potential coercion from labor officials. Because the public employee unions are such a powerful political force in our society today, I believe it is prudent and wise to extend the antisolicitation provision of H.R. 8617 to union officials.

Therefore, I urge adoption of my amendment.

Mr. McGEE. Mr. President, I must express the opinion of the majority of the committee that this amendment by the distinguished Senator from Hawaii is unacceptable to the committee, and we are forced to vote "no" on the proposal.

Really, what is at the heart of the Senator's amendment, No. 1277, is antiunionism. It is just another blow struck at the stewards who serve in the unions, and are elected by union members. It is part of an unraveling process. Let us not disguise it. If we are going to dismantle the unions, then let us have a dismantle-the-unions bill.

One of the breakthroughs modern Government has been dignifying the role of public employees by allowing honorable collective bargaining procedures. It is as elementary as that, and that is what is at stake.

One of the responsibilities of the unions, under law, is to carry out activities in the interests of all and let the individual members cast their votes to decide which way they want to go on a matter. But it ill behooves the Members of this body to start babysitting the unions now, just as we were proposing a while ago to babysit the individual employees.

The same thing applies here, only it has a more subtle implication. It is an attempt to strike a gut blow at a responsible and honorable collective bargaining process that has long been established.

If there are violations they should be prosecuted, and they would be prosecuted under this bill; for the key word here, under the bill that the committee is presenting today, is "voluntary."

There is nothing permitted in the process of collective bargaining that would do violence to that basic and treasured word. That is the key, Mr. President. And that is the reason it is important that we defeat this basically and intrinsically antilabor proposal. It is nothing more nor less than that.

We have been proud of the fact that, in our country, in contrast to a great many countries, we have been very responsible in the collective-bargaining field, especially among Federal employees at all levels. This has been hailed not only as a great breakthrough in modern history, but as an example for similar groups around the world that there is a wiser and more effective way.

Of course, it is political. I say to my colleague on the other side of the aisle that that is what American Government is all about. It was Thomas Jefferson who made the point best of all when he said that politics must be the lifeblood of the American citizen—the lifeblood.

It is time we stopped trying to demean politics or trying to pretend to avoid something because it is political. It is political sensitivity and political responsibility that makes the difference.

That includes all citizens, not just some citizens. It includes labor, the working man. It includes management. It includes the corporate groups and it includes the consumer groups. If they are not political, then they will hide behind some other pretense and become something less than a constructive or positive force.

The President is political. God help us when he is not, in the sense of being responsive to public opinion and to public interest. That is why we have elections in this country.

It was Charles Evans Hughes who said, on one very eloquent occasion, that unless and until we raise politics to the highest profession in the land, we are going to fail in our mission to preserve a free political society.

That was pretty strong language from a fairly conservative member of the Supreme Court in those days, at a time when he was a distinguished candidate for the highest office in the land. But it is worth our pondering as we seek to tamper, bit by bit, with the broad purposes of this law that is being proposed here, this basic step forward and upward to make the Hatch Act even more meaningful and make those affected by the Hatch Act full citizens in the most responsible way. So the recommendation of the committee is a "no" vote on this measure, Amendment No. 1277.

Mr. TOWER. Mr. President, I have always admired my learned friend from Wyoming, who, I am certain, was a very good and persuasive teacher in his days in the classroom, and who has an extremely retentive mind that can, at will, summon up the appropriate comment by historic figures to reinforce his arguments. It is with some trepidation that I rise to make a comment.

Since the name of Thomas Jefferson has been invoked, I should like to note that Thomas Jefferson also said that government is best which governs least. I am certain if old Tom were alive today, he would be appalled at the sprawling bureaucracy that we have created, that intrudes on the daily lives of our citizens in a way probably never contemplated by the Founding Fathers.

Thomas Jefferson foresaw that this would be an agrarian society. He said that it was unthinkable that Americans should ever work at the distaff and the loom. I am not sure what a distaff is, but I do know what a loom is. But I think what Tom meant was that Americans should not work in the manufacturing industry.

Although Jefferson's economic fore-

cast for this country might have been inaccurate, and the type of society he envisioned is not the society we have, the fact of the matter is that he was the most articulate of the great American libertarians. He was the original liberal thinker in this country, even though his own thinking had been influenced by a number of the European philosophers.

I am certain that the kind of governmental intrusion in the daily lives of the citizens we have today would be offensive to the libertarian ideas of Thomas Jefferson and his contemporaries.

Mr. President, I do not think we should do anything calculated to encourage placing any more political power in the hands of Government employees, who have a vested interest in the perpetuation of the system. Every time we try to reduce some program or cut funds for it because it has outlived its usefulness or proved to be ineffective, we get a number of Federal employees in, lobbying us to keep the program going, not only to not reduce the funding, but to increase it.

If there is any segment of American society that has inordinate political power, it is not big business, it is not the farmer. It is organized labor, which represents perhaps 20 to 25 percent of the active work force in this country. I think it is time that we revised our archaic labor laws, that we begin to dismantle some of the statutory wall of protection that surrounds organized labor. These laws were put on the statute books back at a time when there was abuse and when the passage of such acts was called for. They no longer fit the situation as it exists.

I hope the Senate will support the amendment offered by the distinguished Senator from Hawaii, who has labored long and hard in this vineyard, and, I think, knows whereof he speaks.

Mr. McGEE. Mr. President, I accept with great interest the comments of my beloved colleague from Texas, who is guilty of the same crime as the senior Senator from Wyoming. That was pursuing a career as a professor.

He and I appreciate the fact that there was a day when the very worst credentials one could have for public service was to be suspected of having read a book, let alone having written one.

Mr. TOWER. Unfortunately, it may still be true.

Mr. McGEE. I guess the principal weakness I would have to confess to among our colleagues is that, while we were professors, we all had more solutions to the problems of the world than we have today, when we are here where we have to take the consequences for how we vote and what we may decide.

Because of Senator TOWER's academic background, I weigh very carefully his comments and am persuaded to pursue them just a little further. I think they tell us a great deal. I think we probably have a genuine common hero in Thomas Jefferson.

I think it makes a difference which Jefferson we quote, because the young Jefferson, the revolutionary who wrote the Declaration of Independence, was quite a different Jefferson from the President of the United States.

The young Jefferson opposed big government, opposed the Federal bureaucracy, and was a very strict constructionist of the Constitution. He was one of those flaming liberals of the revolutionary days. But, upon becoming President, he found that the burdens of the office almost completely reversed his philosophical approach to the problems he was faced with resolving.

Jefferson, who thought that there ought to be a minimum of Federal Government rather than a maximum of it, probably did more than any other President for the first quarter of the country's history—until Jackson, at least—to enhance the role of the Federal Government. He was compelled to do so because of the times.

Congress did not like what he did at the time because they felt he was exceeding the constitutional confines of the executive office. But that is an old story, too. We are up against that often. Jefferson exceeded his early dreams of very austere Government in at least one instance by spending more Federal funds than he had ever dreamed the situation would require. But, in doing so, he acquired an empire greater than any nation had ever acquired in peacetime It is, of course, the Louisiana Purchase to which I refer.

He violated his own early precepts that he had expressed very eloquently in regard to the powers of the Executive in other ways, also: namely, by preempting decisionmaking in war and in peace in regard to the Barbary pirates. In addition, he developed other concepts that ultimately came down to a loose construction of the Constitution, which had been Hamilton's original position and Jefferson's opposition.

So I am simply saying that we ought to be very careful about what any of us attribute to Thomas Jefferson. I attributed to Thomas Jefferson a quote from one of his essay tracts that, it seems to me, bears not upon either the division of power or the division between liberals and conservatives as to whether the Constitution is being abridged or abused or even obeyed.

It is rather a bit of philosophy in terms of a free society, for his basic philosophy was that everything we do and must do is indeed political. To disguise it otherwise, it seems to me, and seemed in his own words, is to suggest that we are ducking the basic question that was, and is, the lifeblood of our kind of American way, as we loosely call it.

So I would hope that neither of us is torturing Jefferson's intent. I am sure George Washington, Thomas Jefferson, and Abraham Lincoln have received credit for more ideas than any of them ever dreamed possible, and most of them would not have identified with any of those ideas because of the changing times.

But there are some ongoing attributes of all of the giants in our own country's history that are worth repeating. And I consider that one of Jefferson's thoughts worth reminding each other about, if for no other reason because of the shadow that has been cast over our system at this time is that it is necessary that we build up a confidence in the system of politics. That is not to say partisan politics or crooked politics or narrow politics or enlightened politics; it is to say politics.

The ladies' aid is politics; certainly the school board is politics. Anything that has a responsibility in a social and community way is politics, however else you try to disguise it. The sooner we face squarely I think the sooner we will contribute to raising the level of our concept of politics and our sense of political responsibility.

Nobody that I know of seeks to create a mammoth bureaucracy that preempts the role of the individual. I think the story of the rise of the Federal Government, if we may revert to history again, is pretty much the story of trying to correct the excesses of those who would take advantage of an emerging and rapidly growing new Nation that had unlimited natural resources of great wealth due to the Lord or mother nature, however you want.

It is the story of trying to find a balance, for, I think, it is well that we remind each other that freedom is not free. Freedom requires restraint and judgment and responsibility. I think that is really what is at stake in all of this.

For someone who suggests that the bureaucracy is taking over, I cannot imagine any more burdensome or threatening way for the bureaucracy to become distended in its profile than to imprison Federal employees within the confines of restrictions that take them out of the mainstream of being citizens of the United States. The most responsible way to make sure that the abuses that demean the system and erode it shall not occur or if they do occur that they will occur at great penalty to those who commit it to create the possibility of responsible, relevant citizen participation. That is really what it is all about.

I feel very strongly that our slowly emerging, very responsible collective bargaining system is becoming sophisticated and mature in its new proportions. God knows there are plenty of corrections to be made yet on all sides.

The same thing can be said of the management community as well. Even as we would seek to curb here, as this pending amendment appears to do, the activities of the workingman, we would also seek to make more responsible the activities of the management people, of those who are responsible for the conduct of large business enterprises.

They ought not to be penalized either and I think under the reforms that have been emerging here in these last months the need for responsible political commitment by large industry groups is now becoming clearer and clearer.

So I think it is a serious mistake to single out the stewards of labor and labor unions as the targets of some sort of exclusion from the mainstream of domestic political life. I mean democratic now in the small "d" sense, in the philosophical sense that Jefferson was referring to. The same thing can be applied to the very large corporate groups as well and I think we are approaching that, as well.

I do not think we will do that—I think

we will move backward—if we try to deny it to the stewards of whatever group. I am talking about the responsibility freely, without duress, without compulsion, without threats, to mobilize the efforts of groups in a responsible political way, and I think that is really at stake in the pending measure. That is why it is so important that we update the items that are currently of concern in the Hatch Act.

Mr. TOWER. Mr. President, I think my colleague from Wyoming was quite correct in pointing out that Jefferson has to be taken in context considering when he said what and, indeed, you could probably find enough Jefferson to support both sides of an argument.

I think Jefferson was fortunate that the War Powers Act was not in existence during his administration or the Tripolitan pirates might have gotten to Washington and burned it down before the British did. Jefferson, however, was pursuing what he perceived to be a constitutional role as the formulator and implementer of foreign policy. I do not believe that that offended his constitutional sensibility. Certainly the Louisiana Purchase did, and he suggested that Congress should formulate and send to the States an amendment to the Constitution that would legalize the act after he had already committed it. I am not that strict a constructionist of the Constitution myself. I think he was perfectly within his rights.

I do think, however, that even though he realized that Government had to exercise a firm hand in society, I do not think he would have taken lightly to the idea of Congress delegating away its power by passing authorizing legislation that creates Government agencies that impact on our daily lives through rules and regulations that sometimes do not accurately reflect congressional intent.

I think the Hatch Act was devised for a good purpose—to prevent exploitation of public employees by politicians—and, on the other hand, performs the function of preventing Government employees from being a pressure group that could perpetuate its own vested interests.

I think both issues are involved here and this is a matter on which I think the Senate should reflect very carefully.

I say to my good friend from Wyoming, I think it is refreshing when we college professors can wrest this away from the lawyers for just a few brief minutes to have a colloquy of this kind.

Mr. FONG. Mr. President, I was very happy to listen to the very erudite and very distinguished remarks of the academicians. I think they have given us a very fine insight into the thinking and the philosophy of President Jefferson.

I am glad the name of President Jefferson has come forward in the discussion because it was President Jefferson who, understanding what the whole situation was and understanding what politics in government is, issued the first Executive order concerning political activity:

President Thomas Jefferson promulgated the first restrictions on the political activities of the Executive Branch personnel. A directive he issued in 1801 expressed his dissatisfaction with the active participation of Federal personnel in Federal and state elections and warned them not to "attempt to influence the votes of others, nor take any part in the business of electioneering . . ."

This is what Thomas Jefferson issued: the first Executive order dealing with electioneering by Federal employees.

I am glad that his name has been brought up and that his philosophy has been dealt with on the floor of the Senate so that we can get an idea of what this great President has done in issuing that Executive order dealing with electioneering by Federal employees.

My distinguished chairman of the Senate Post Office Committee says that my amendment is anti-union. It is no such thing, Mr. President. My amendment does not prohibit a union man who is not a union official from soliciting his fellow employees for a political contribution.

My amendment only says that if one is a union official that he will be prohibited from soliciting from his peers.

What is so strange about saying that the union official and the union steward cannot solicit from his peers?

The bill which is before us has the same kind of prohibition against the supervisors. We say if one is a supervisor one cannot solicit a subordinate. This bill is antisupervisor and yet it is all right to be antisupervisor and not antiunion-steward.

I cannot see the difference. In fact, it is much worse for the bill to be antisupervisor, than to be antiunion because the strength of the union is far greater than that of a single supervisor.

I quote from Mr. Bolton, who wrote a study entitled "A Civil Libertarian Defense." In relation to coercion by a supervisor as differentiated from the coercion of a union he says as follows:

Indeed, the difference between coercion of an employee by a supervisor and coercion of an employee by a union—which may include supervisors—(the paradigm of today) is that coercion by a union is far harder to resist. Moreover, it may well be that unions are far more capable of engaging in the systematic solicitation and intimidation of federal employees than a network of supervisors.

Now I ask, who can exert greater influence on an employee, a single supervisor, two or three supervisors, or the collective strength of the union as exemplified and symbolized by that union steward?

When that union steward asks someone to do something, he is asking in the name of the union.

If we bar the supervisors from soliciting a Federal employee, why should we not bar a union official who has the collective pressure, the collective strength, the collective authority of the unions—and when we talk about the unions, we are talking about hundreds of thousands of individuals in that one particular union as differentiated from one supervisor.

I say that the pressure of the union official is far more pervasive, is far stronger has more influence upon the employee than that of the supervisor.

In this bill, which we have presented to the floor of the Senate, we say that the supervisor cannot solicit from his subordinate because he is a supervisor and will be exerting pressure on him. We say in my amendment that the union official may not use the pressure of a union against an employee.

I want to say that this is not anti-union. It is only trying to put the whole thing in perspective; that if we have the pressure, we have the power; we should not use it to solicit political funds. This is what this amendment says.

The PRESIDING OFFICER (Mr. BROCK). The Senator from Wyoming.

Mr. McGEE. Mr. President, I shall not delay the body excessively here. I want to make one or two comments since we have been enjoying the afternoon reminiscing about the man none of us knew, Thomas Jefferson, and interpreting his role in history, even down to the present time, in some instances.

I would like to remind my colleague that President Jefferson's Executive order against White House personnel participating in trying to influence votes in elections, is not only long since buried in history, but was even buried at that time.

As the Senator will recall, the Jeffersonian era evidenced a government by a very small but very talented group of country gentlemen.

It was a much cozier time. There were not even ramifications of citizenship for all, let alone voting rights for all, stretching over many hundreds of thousands of square miles in many diverse circumstances.

I think it it necessary to make sure that we do not lift Mr. Jefferson out of the context—as my colleague from Texas reminds us—of his own time. But I find it difficult to accept my colleague's comparing the stewards to the supervisors and saying that if there is any difference at all, it is the other way. I guess we have not lived in the same world.

We know the problem under the system, the problem that brought the Hatch Act into being. That is, the fact that supervisors were cracking the whip, and superiors were extracting contributions, and demanding personal conduct that would provide an input for partisan politics.

In my experience, the supervisors in civil service, have not had to stand for election. They have been there because of a fine record of promotion that put them there. Those below them that may have been abused have had no recourse except to file an action before the Civil Service Commission.

A steward, on the other hand, has to stand the test of his peers or be bounced. The same, I suspect, is equally true, if not more viciously so, among the board of directors at the other end of the spectrum, in management. To compare the problem that did flow from the top down and that brought the Hatch Act into being with that of a steward is to distort the record of these times.

Very frankly, Mr. President, I fail to see any conflict of interest of Federal employees in the good management of governments, or in participating in forming public policies or in supporting candi-

dates who are contending for office. For those candidates are not being elected to take care of a Federal employee. They are not being asked to nurse along an interest of an employee except as citizens—no more so than the Chamber of Commerce does.

Representatives of the Chamber of Commerce were just talking to me in the lobby. They needed the appropriation of some funds that would be of assistance to business, to stimulate business activity.

I suppose one could argue they have had a conflict of interest because their membership depends upon strong business roots. But that is what government is about, and that is why citizen lobbies of any type, wherever they are employed, continue to be exceedingly important. That is why we stopped maligning those citizens who are gainfully employed with the Federal Government of the United States.

It is important that we separate the responsibilities of employment from the right to be a full-time citizen of the United States. It is that distinction that we think is being abridged or impinged upon by the Senator's amendment.

So I urge the Members of this body to vote no on amendment No. 1277.

Mr. FONG. Mr. President, this amendment does not malign the Federal employees. It protects the Federal employees from the pressures of the union steward. It protects the employees from being being coerced, subtle or otherwise, into giving a political contribution. If a supervisor is denied that, so should his union official be so denied.

I am ready to vote.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Hawaii. The yeas and nays have been ordered. The clerk will call the role.

The legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Texas (Mr. BENTSEN), the Senator from Mississippi (Mr. EASTLAND), the Senator from Hawaii (Mr. INOUYE), and the Senator from California (Mr. TUNNEY) are necessarily absent.

Mr. GRIFFIN. I announce that the Senator from Arizona (Mr. GOLDWATER), the Senator from Wyoming (Mr. HANSEN), the Senator from Idaho (Mr. MCCLURE), the Senator from Oregon (Mr. PACKWOOD), and the Senator from Vermont (Mr. STAFFORD) are necessarily absent.

The result was announced—yeas 25, nays 66, as follows:

[Rollcall Vote No. 57 Leg.]

YEAS—25

Baker	Domenici	Percy
Bartlett	Fannin	Ribicoff
Bellmon	Fong	Scott, Hugh
Brock	Garn	Scott, William L.
Buckley	Griffin	Taft
Byrd, Harry F., Jr.	Helms	Thurmond
Curtis	Hruska	Tower
Dole	Laxalt	Young
	McClellan	

NAYS—66

Abourezk	Brooke	Case
Allen	Bumpers	Chiles
Bayh	Burdick	Church
Beall	Byrd, Robert C.	Clark
Biden	Cannon	Cranston
Culver	Johnston	Nunn
Durkin	Kennedy	Pastore
Eagleton	Leahy	Pearson
Ford	Long	Pell
Glenn	Magnuson	Proxmire
Gravel	Mansfield	Randolph
Hart, Gary	Mathias	Roth
Hart, Philip A.	McGee	Schweiker
Hartke	McGovern	Sparkman
Haskell	McIntyre	Stennis
Hatfield	Metcalf	Stevens
Hathaway	Mondale	Stevenson
Hollings	Montoya	Stone
Huddleston	Morgan	Symington
Humphrey	Moss	Talmadge
Jackson	Muskie	Weicker
Javits	Nelson	Williams

NOT VOTING—9

Bentsen	Hansen	Packwood
Eastland	Inouye	Stafford
Goldwater	McClure	Tunney

So Mr. FONG's amendment (No. 1277 was rejected.

Mr. MCGEE. Mr. President, I move to reconsider the vote by which the amendment was rejected.

Mr. ROBERT C. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. MCGEE. Mr. President, for the benefit of Senators, who may be wondering, we have one more amendment that will take us approximately 10 or 15 minutes. It is an amendment by Senator FONG, and we anticipate that the rollcall vote on that will be the last rollcall tonight. I say that to facilitate those who may have other problems pending. Whenever we come in tomorrow we shall have a series of amendments yet pending. Hopefully we will be able to dispose of them tomorrow.

AMENDMENT NO. 1274

Mr. FONG. Mr. President, I call up my amendment No. 1274.

The PRESIDING OFFICER. The amendment will be stated.

The second assistant legislative clerk read as follows:

The Senator from Hawaii (Mr. FONG) proposes amendment No. 1274.

Mr. FONG. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 6, beginning on line 22, strike out all through page 7, line 7, and insert in lieu thereof the following:

"§ 7325. Political activities by employees; prohibition

"(a) An employee may not hold, or be a candidate for any elective office, unless such office is—

"(1) a part-time elective office of a State or political subdivision thereof; or

"(2) held by an individual elected in a nonpartisan election.

"(b) An employee may not engage in political activity—

"(1) in which such employee actively participates in any campaign activity on behalf of, or in opposition to, any political party or any candidate for elective office, unless such activity is in connection with—

"(A) any campaign by any candidate for elective office of a State or political subdivision thereof; or

"(B) a nonpartisan election;

"(2) while such employee is on duty;

"(3) in any room or building occupied in the discharge of official duties by an individual employed or holding office in the Government of the United States, in the government of the District of Columbia, or in any agency or instrumentality of the foregoing; or

"(4) while wearing a uniform or official insignia identifying the office or position of such employee.

On page 7, line 8, strike out "(b)" and insert in lieu thereof "(c)(1)".

On page 7, line 8, strike out "subsection (a)" and insert in lieu thereof "subsections (a) and (b)".

On page 7, line 10, strike out "(1)" and insert in lieu thereof "(A)".

On page 7, line 11, strike out "(2)" and insert in lieu thereof "(B)".

On page 7, line 12, strike out "(A)" and insert in lieu thereof "(i)".

On page 7, line 14, strike out "(B)" and insert in lieu thereof "(ii)".

On page 7, line 16, strike out "(C)" and insert in lieu thereof "(iii)".

On page 7, line 20, strike out "(3)" and insert in lieu thereof "(C)".

On page 7, between lines 23 and 24, insert the following:

"(2) The provisions of subsection (a) and (b)(1) of this section shall not apply to any employee appointed by the President, by and with the advice and consent of the Senate.

"(d) For purposes of this section the term—

"(1) 'nonpartisan election' means any election—

"(A) in which no candidate is to be nominated or elected as a representative of any political party which was identified with any candidate who received any vote in the last preceding election in which presidential electors were selected; or

"(B) on any issue not identified with any political party; and

"(2) 'State' means any of the several States, the District of Columbia, the Commonwealth of Puerto Rico, or any other territory or possession of the United States.".

On page 23, between lines 2 and 3, strike out the item relating to section 7325, and insert in lieu thereof the following:

"7325. Political activities by employees: prohibition.".

Mr. FONG. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. FONG. This amendment, No. 1274, is an attempt to strike a balance between maintaining the status quo of the current Hatch Act, on one hand, and on the other hand, allowing Federal employees to run for any political office and participate actively in all partisan campaigns.

H.R. 8617 would do away with almost all restrictions on partisan politics. This I definitely oppose. My amendment is a compromise between the status quo and unrestricted partisan politics. It would do four things:

First, it would permit Federal employees on a partisan basis to run for part-time State and local offices—not full time, but part time. This would cover an estimated 80 percent of the mayors, 94 percent of the city councils, and virtually all the county commissioners, school boards, and other local boards.

Second, it would permit Federal employees on a nonpartisan basis to run for full time nonpartisan State and local offices.

Third, it would maintain the present law regarding Federal offices; that is, Federal employees would not be per-

mitted to run for Federal offices: the 535 seats in Congress, the Presidency, and the Vice Presidency.

Fourth, my amendment would permit Federal employees to campaign actively for candidates for State and local offices, full as well as part time, but not to campaign for candidates for Federal offices.

Finally, it would prohibit Federal employees from holding office in partisan groups; that is political parties at any level of government.

The Hatch Act, passed 36 years ago, can be improved but not in the drastic manner proposed in H.R. 8617. This is the position taken by the Civil Service Commission and other groups who have carefully studied the subject.

For instance, the Civil Service Commission supports provisions in H.R. 8617 which retain the prohibition against an employee misusing his or her official authority or influence. The Commission also favors those provisions of H.R. 8617 which would improve the procedural aspects of enforcement—such as subpena power to compel attendance of witnesses which the Commission does not currently have in Federal employee cases.

But the Civil Service Commission and other allied organizations are greatly troubled by the repeal of the current prohibitions against employees taking an active part in partisan political management and partisan political campaigns. In the view of the Commission, the Hatch Act in its present form is designed to protect, and clearly has the effect of protecting, the important values of the franchise and expression of opinion by Federal employees. For, by limiting the employee's involvement in partisan political activities, the Hatch Act serves to assure that employees will not be compelled, or feel themselves compelled, to engage in unwanted partisan political activities in order to curry political favor with their superiors or thereby enhance their prospects for continued employment or advancement.

I share the Commission's opposition to the position taken by those who advocate repeal of the antipolitics restrictions and who assert that the employees will be adequately protected by the anticoercion provisions of H.R. 8617. I agree with the Commission that subtle pressure can be brought to bear upon employees in ways which are beyond the reach of any anticoercion regulation.

Along the same vein, the Organization of Professional Employees of the U.S. Department of Agriculture, composed of 8,000 members, states that—

> The most effective control and protection our Federal service has enjoyed under the Hatch Act has been those (anti-politics) restrictions applied to the individual. Laws which place those restrictions and provide penalties only on the supervisory staff will, for many, many reasons, not work. There are too many ways of getting around the prohibitive items and coupled with an individual's desire for recognition, acceptance, advancement and the promotion of personally desired program functions, make such laws almost impossible to enforce. We are therefore opposed to the removal of many political action restrictions on Federal civil servants as now contained in the Hatch Act.

Another organization which takes the same general view in opposition to H.R. 8617 is the National Civil Service League. The League asserts that the bill would "virtually repeal the Hatch Act" and is "apt to lead to a rebirth of the 'spoils system' against which the League has fought for more than 90 years."

The League, too, believes the anticoercion provisions of H.R. 8617 "are inadequate to combat the kind of subtle and indirect intimidation which would be most likely to occur." And to the argument that in the absence of the Hatch Act's restrictions employee organizations will protect their members, the League replies:

> This may be a remedy for some workers, though the capacity and will of employee groups to perform this task remains to be seen. Moreover, this provides no solace for mostly unorganized Government executives—precisely the group which was most sorely pressed during the Watergate-related assault on the merit system.

I have here cited the views of three very knowledgeable and dedicated organizations: the Civil Service Commission, the Organization of Professional Employees of the Department of Agriculture, and the National Civil Service League. Each has devoted extensive, concentrated study to the Hatch Act and the current legislation to amend the law. They are adamantly opposed to H.R. 8617 because they are convinced the bill, if it becomes law, would undermine the Civil Service merit system and lead to the return of the old spoils system and all its evils. Their expert opinion should remind us of the dangers of scuttling the Hatch Act through enactment of the bill now before us.

I have set forth other reasons of my own why H.R. 8617 should be defeated. These have been outlined in the minority views which Senator BELLMON and I filed as members of the Senate Post Office and Civil Service Committee when the committee reported H.R. 8617.

While the organizations I referred to are clearly and definitely opposed to H.R. 8617 in its present form—just as I am—they do not oppose all changes in existing law. At the outset of my remarks on this amendment No. 1410, I described the proposal as a compromise between the status quo and unrestricted partisan politics for Federal employees.

My amendment would expand the present law somewhat by permitting Federal employees to run for part-time partisan elective office in State and local elections. It would also permit Federal employees on a nonpartisan basis to run for full-time State and local offices. It would also permit Federal employees to State and local offices, full as well as part time.

But my amendment would retain and continue certain restrictions. It would not permit Federal employees to run for Federal offices; it would not permit them to campaign for candidates for Federal offices; and it would not permit them to hold office in political parties at any level.

I believe my amendment is a fair method of resolving the desire of any Federal employee for increased participation in political activities while at the same time preserving the most important safeguards for the employees and the civil service merit system.

Mr. President, I yield to the distinguished Senator from Maryland.

Mr. MATHIAS. Mr. President, I thank the Senator from Hawaii. I commend him for the work he has done, not only on this bill but also on legislation over a long period of years in the interests of civil servants and postal workers, work in which he has for along time been associated with the distinguished chairman of the committee. Both of them have made an admirable record in overseeing the welfare of the men and women who devote their lives to public service in this country.

I am very much interested in the amendment of the Senator from Hawaii, and I ask unanimous consent, if he has no objection, that my name be added as a cosponsor of the amendment.

Mr. FONG. That is fine.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. FONG. Mr. President, will the Senator yield?

Mr. MATHIAS. I yield.

Mr. FONG. Mr. President, I ask unanimous consent that I may withdraw my amendment No. 1274 and substitute in its place amendment No. 1410, which is the revised amendment.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

Mr. FONG. Mr. President, I ask unanimous consent that the rollcall vote be transferred to this amendment.

The PRESIDING OFFICER. Without objection, the yeas and nays are transferred to amendment No. 1410.

Mr. MATHIAS. Mr. President, for years I have been an advocate of change in the Hatch Act. I believe that the Hatch Act has been restrictive. It has denied to Federal employees the most rudimentary rights of citizenship, which is participation in government at a local level, participation in government at the level at which their lives are affected critically—municipal and county elections.

The act has been enforced with a rigor which at times is ludicrous. I know of cases in which Federal employees have been denied the opportunity to become delegates to a municipal partisan convention for the nomination of municipal officers. It is a job of about an hour and a half, which has no pay connected with it. It is about the simplest performance of civil duty that I can imagine. Yet, under the rigorous enforcement of the Hatch Act, they have been denied the opportunity to participate in town and city affairs.

Of course, there is a correlative to this, and that is that their communities very often have been denied the creative, imaginative approach to municipal problems, which Federal employees can bring to them.

So, for many years I have been in favor of changing the Hatch Act so that Federal employees could contribute their imagination and their creativity to the

problems of their communities through political action. But I also have been aware that the Hatch Act is more than a halter. It is a shield. It was not adopted just to hamper Federal employees who want to participate in electoral activities. The Hatch Act was adopted after widespread public demand, arising from the harassment of public employees for political purposes. They were solicited for money. They were threatened in their job security and in their chances for promotion. They were persuaded to act, if not illegally, certainly improperly, in the performance of their official duties as Government employees. The situation had reached the point of scandal, and the Hatch Act was adopted as a shield to public employees to prevent the continuation of that scandal.

So I do not think we should consider that the Hatch Act is only a restriction on freedom of political expression. We have to remember that the Hatch Act is also a shield to protect Federal employees.

Much as I have been in favor of change in the Hatch Act—amendment of the Hatch Act—I have come to the conclusion that H.R. 8617, the bill now before the Senate, as it was reported from the committee, is too much of a good thing. It changes the Hatch Act, all right; it really changes it to the point that there is no Hatch Act left.

Federal employees around this town and around this country will rue the day that they lose the shield that is involved in the Hatch Act. They have not been totally immune from harassment even with the Hatch Act. Since I have become a Member of Congress, I have received many, many appeals from Federal employees who have said, "In the agency in which I work, it is expected that I buy a hundred-dollar ticket to a political dinner. It is expected that I subscribe to a political fund."

However, because the Hatch Act existed, I was able to go to the Attorney General of the United States, to go to the Civil Service Commission, and to say: "Look, the law is being broken. These people, who are constituents of mine, who happen to be employees of the Federal Government, are being illegally solicited."

I was able to help protect these people from being forced to contribute to political candidates and political causes that they did not support, because the Hatch Act was a shield. I do not think that this kind of harassment is going to take place in a local election. But I know it does take place in national elections, because the people have come to me and told me about it and complained and asked for help. And the only reason I was able to help them was that the Hatch Act was there as a shield. With this bill, we are going to throw away that shield unless the amendment of the Senator from Hawaii is adopted, an amendment which would permit political activities to take place at the local and State level, but which would protect employees by retaining the restrictions on activities at the Federal level.

I think the integrity of the civil service has to be protected from any hint of corruption. We have had a very recent experience with Watergate. I think that experience has called into question the integrity of Government at the highest levels. I do not think we should do anything today which will in any way further diminish the confidence that the citizens of this country have in their Government. To totally remove the protections of the Hatch Act at this time, I think, may do just that.

Mr. NELSON. Will the Senator yield for a question?

Mr. MATHIAS. Surely.

Mr. NELSON. I have a list of three amendments here by the Senator from Hawaii. This one specifically addresses itself to the question of running for local or State office and prohibits running for Federal office.

Mr. MATHIAS. This amendment would permit Federal employees the freedom, which I think they should have, to participate in local elections up to and including the statewide election, but not national elections for Congress and for the Presidency.

Mr. NELSON. Will the amendment permit the Federal employee to be a candidate for a State or local election on a partisan ticket?

Mr. MATHIAS. Yes; he could become a candidate. I invite the distinguished author of the amendment to partcipate.

Mr. FONG. Yes; he can run as a Democrat or a Republican.

Mr. NELSON. For State or local office?

Mr. FONG. Yes.

Mr. NELSON. For partisan office?

Mr. FONG. Yes.

Mr. NELSON. And for full-time office?

Mr. FONG. He cannot run for full-time office in a partisan election—only part time.

Mr. NELSON. I do not know the situation in all States. I assume that in some States, the legislature is considered a full-time office. Would he be prohibited from running for the State legislature under the act——

Mr. FONG. If it is a full-time office; yes.

Mr. NELSON. But if it is a legislative office and it is part time, he can run.

Mr. FONG. Yes.

Mr. MATHIAS. I think the natural examples which occur are city council or board of aldermen, which meet weekly, and that type of thing, which would be permissible; but one which is obviously incompatible with full-time Federal employment would not be permitted under this; is that right?

Mr. FONG. For full-time office, he would not be allowed to run.

Mr. MATHIAS. Mr. President, as an example of what could be done to public confidence in Government, I have a poll conducted by the New York Times concerning the attitude of people toward their Government's responsiveness and trustworthiness. The poll was reported in the New York Times of Monday, February 23:

About 58 percent of most voter groups said that they believe that the Federal Government is unresponsive and 56 percent said they felt the Government could be trusted only some of the time. Another 5 percent said that they would never trust the Government.

Not surprisingly, the poll showed that cynicism was greater among the young adult and minority groups.

Permitting partisan political activity by Federal employees at all levels of the Government would further feed public mistrust of their Government.

It is significant, I think, that the Senate Select Committee on Presidential Campaign Activities, after completion of its inquiry into the Watergate affair, did not recommend that the Hatch Act be liberalized. In fact, the committee, in its final report, recommended that the Hatch Act be extended to cover additional employees. It is my opinion that the bill before us, as reported by the committee, would further erode confidence in the Government. I think it would allow unlimited campaigning for a candidate by Federal and postal workers without requiring them to take a leave of absence. Only those running for elective office would be required to take leave without pay 90 days prior to the election date.

I think we have to consider what this would do to the workings of the Government. Lacking any clear directive or prohibition to limit political activities to nonworking, off-duty hours, Federal employees could engage in telephone campaign work, soliciting funds and votes from their coworkers and from others. The processes of Government would surely be slowed by the problems of separating off-duty from on-duty time. I think the public's view of Federal redtape and delay in decisionmaking could become more cynical than it already is.

I represent a great many Federal workers. I do not think they compartmentalize their lives any more than anybody else does. I think we would ask too much of them to ask them to perform as neutral nonpartisan civil servants by day and as political operatives at night.

Mr. President, I make a point of order that a quorum is not present.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. FONG. Mr. President, I ask unanimous consent that Senator BUCKLEY be made a cosponsor of this amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MATHIAS. Mr. President, I think it is worth reviewing the comments of the Supreme Court in June of 1973 in defining public trust. The Court said at that time:

It seems fundamental in the first place that employees in the Executive branch of the Government, or those working for any of its agencies should administer the law in accordance with the will of the Congress, rather than in accordance with their own or the will of a political party. They are expected to enforce the law and execute the programs of the Government without bias or favoritism for or against any political party or group or the members thereof. A major thesis of the Hatch Act is that to serve this great end of Government—the impartial execution of the laws—it is essential that federal employees not, for example, take formal positions in political parties, nor under-

take to play substantial roles in partisan political tickets. Forbidding activities like these will reduce the hazards to fair and effective government.

That quote, of course, is from the Supreme Court case of the Civil Service Commission against the National Association of Letter Carriers.

I do not go as far as the Court did in that decision. I think it is all right to let a Federal employee take a partisan position with respect to a State or local election. The amendment sponsored by the Senator from Hawaii would safeguard against any compromise of the Federal Civil Service by restricting partisan political activity to State and local elections.

Two major exemptions in the present Hatch Act now on the books provide for partisan campaigning. All Federal employees are permitted to engage in nonpartisan political activity, including being a candidate in a nonpartisan election, and a nonpartisan election is one in which none of the candidates represents a political party whose candidate for Presidential electors received votes in the last Presidential election.

The second exemption covers employees residing in areas where a majority of voters are Federal employees. The Civil Service Commission is empowered to except such employees so that they may take part in municipal or other local partisan political matters. However, under Civil Service Commission regulations political participation by these employees is limited to activity on behalf of an independent candidate or to being an independent candidate, and this exemption extends to employees residing in Maryland or Virginia, in the immediate vicinity of the District.

Now, the amendment before us, the amendment of the Senator from Hawaii, makes a material liberalization of the Hatch Act, and Congress, if it adopts the Fong amendment, would have an opportunity to observe how the liberalization of the act is working, whether it is promoting a higher level of citizenship among Federal employees in participation in local and State elections.

They can also observe whether lowering the shield of the Hatch Act is exposing the Federal employees to a greater degree of risk of harassment, of solicitation for funds, of threat to promotion, or to job tenure—all of those things the Hatch Act was originally enacted to prevent.

Now, the bill before us, of course, opens the door to political activities of all kinds except the few which are specifically prohibited.

The original bill in the other body, H.R. 3000, is more concise by specifically listing the kind of political activity that would be permissible.

So really under this bill "anything goes"; "anything goes" unless it is specifically prohibited. I think we want to raise a question as to whether we want to say "anything goes" when we are talking about political activities of Federal employees in relation to Presidential elections, to congressional elections, to elections on the national scale which deal directly with the agencies in which these employees work.

Now, that is a question to ponder. I do not think we can overlook the question of the coercion of Government employees in the light of recent experience with abuse of power. For a long time in America we said it could not happen here but, unfortunately, we have learned that a great many things can happen here, and Government employees can be coerced and, unhappily, we have experience in our own past to know that it can happen here. That is why the Hatch Act was adopted.

I think by limiting partisan and political activity by Government workers the Government is, in effect, restraining itself and really in first amendment terms protecting voluntary uncoerced political activity by individuals.

The American Enterprise Institute for Public Policy Research has pointed out:

There is no a priori reason why one employee's First Amendment right to engage in partisan political activity should be given preference (as repeal of the Hatch Act limitations would do) over his colleague's equally important First Amendment right not to be forced to engage in partisan activity. Of course, there is no a priori reason why the contrary of this proposition is not also valid.

So I think we have to ask what protection would be provided a Federal employee who does not wish to participate in political activity but is requested or, perhaps, subtly coerced to do so by coworkers and by, most important of all, his superiors.

I think persons engaged in business with their government must feel free to speak their minds regardless of political persuasion and to associate with Federal representatives without fear that their opinions would be adversely received by those Federal employees.

Because one of the main purposes of the first amendment was to protect the free discussion of governmental affairs, of political affairs, of politics, as the Court held in Mills against Alabama, the political restrictions on Federal workers are restrictions on governmental interference with speech and associational freedoms.

Moreover, political decisionmaking by Federal employees serves, can serve, their own political motives at the expense of the citizens-at-large whom they have chosen to serve by accepting Federal employment.

As was noted in the previously cited American Enterprise Institute report:

A politically active bureaucracy raises grave dangers that at least in part, government by the people risks being replaced by government by the government. . . .

Because bureaucrats, particularly higher level ones, possess established channels of communication to the policy-making organs of the government, they have opportunities to affect decision making to an extent far beyond the ability of the average citizen. If partisan activity were also permitted to them, their influence, as a consequence of the access to federal power provided by their jobs, would be even more disproportionate to that of their fellow citizens.

So I think, in light of the American experience prior to the year 1939 with the spoils systems of the Federal service—with the experience which led to public demand, which led to adoption of the Hatch Act—the Hatch Act was not just hatched. We had the Hatch Act because people wanted the Hatch Act, they demanded the Hatch Act. They felt the country needed it; they felt the Federal employees needed it; they needed that protection.

With that experience in mind I think it behooves us to proceed cautiously in the amendment of the act. Once our Federal service becomes tainted with charges of politics and partiality it is difficult to restore confidence.

That confidence is the confidence of the average citizen in his government. That confidence is also the confidence of the employee who has decided patriotically to devote his or her life to government service, but who wants to do it without being harassed by some politician who says, "You have to buy a ticket to a dinner in order to get promoted, or you have to undertake political activity and show where your heart is if you want to keep your job."

And those were the conditions that existed in this country before 1939. And, Mr. President, those are the conditions that might return to this country if we totally abolish the protection, the shield of the Hatch Act, which not only covers the integrity of the Government for the sake and welfare of all of the people, but which is a shield in particular for the employees.

Mr. President, I very sincerely hope the Senate will adopt the amendment of the Senator from Hawaii and then we will have a relaxation of the Hatch Act which will give us a test to show how Federal employees can make a positive contribution by participation through local and State elections.

I believe that will be a positive experience in American politics.

Mr. FONG. Mr. President, I want to thank the distinguished Senator from Maryland for a very enlightened speech. It was an excellent statement.

I yield the floor to my other colleague from Maryland.

Mr. BEALL. I thank the distinguished Senator from Hawaii, and the ranking minority member of the committee, for yielding to me on this subject.

Mr. President, I rise in support of the amendment offered by Senator FONG and in support of the position just expressed so eloquently by my senior colleague from Maryland (Mr. MATHIAS).

Mr. President, as one who represents a large number of Federal employees who reside in the State of Maryland, this legislation is of great importance to me. The volume of mail I have received from those in the civil service and from members of the general public has been quite heavy on this subject, as one can imagine. This mail, however, does not support the contention that our civil servants desire a change in the present Hatch Act provisions. To the contrary, the majority of the letters I have received indicate a fear by some Federal employees and citizens of pressures that might be applied to them in case the Hatch Act rules were relaxed, and a desire on their part to maintain an apolitical civil service.

I have repeatedly expressed my concern over the growing bureaucracy and costs of the Federal Government, and the need to improve the delivery of governmental services to the public. This

delivery can best be accomplished by an impartial civil service, and, in fact, I feel that the politicization of those involved with programs on the Federal level would be disastrous. The public would have an added concern about the effects of their political opinions and activities when facing the Federal bureaucracies, and any improvements in the relations between the Federal level and the recipient groups in recent years might, indeed, be undermined.

Mr. President, my objections to the legislation before us now are based on two major factors: A desire to maintain the impartiality of the civil service; and a desire to heighten the public's perception of this impartiality. In recent years, the Federal Government has apparently been losing the confidence of the American public, a confidence that we are all trying to regain. I do not feel that the Nation would approve of the politicization of the civil service, nor do I feel that it is helpful in insuring the fairest implementation of governmental policy to have people identified with partisan politics also charged with the responsibility of the impartial execution of public duties.

Proponents of a change in the Hatch Act maintain that one can separate his or her political views from his or her work. I do not feel that people are able to compartmentalize their lives in this fashion. Although a civil servant may make an honest attempt to continue the impartiality of his or her work, I feel that the pressures to combine political activity with this work will be too great. The debate on the House side on this issue focused on the problems that members of the law enforcement and intelligence communities might have in this regard, and testimony submitted before Congress by other regulatory agencies supports this concern. The subtleness of any coercion either to participate, contribute, or use one's position for political reasons is too difficult to prove, and/or to prevent, other than by the absolute prohibition of any political activity. The experiences of minority groups in employment and the difficulty in enforcing current nondiscrimination laws are cases in point. The frustration that these groups feel would extend to Federal employees, no matter what mechanisms are established to hear and decide cases of coercion.

Additional arguments are made that constitutional rights are being infringed upon with the restriction of political activities of one segment of our society. This argument has been before the Supreme Court of the United States on three different occasions and all three times the Justices have supported the constitutionality of the Hatch Act, declaring that first amendment restrictions can be made because of the dire need to have an impartial civil service. Thus, we are protecting the greater private rights of our Nation's citizens over the public powers associated with the Government and its employees. When one Federal employee applies political pressure to another employee, he is in effect applying power given to him by his position in the Government. This power comes from the general public, to allow the Government to perform functions on behalf of its citizens, and must not be misused.

At the same time, Mr. President, I feel that a Federal employee could provide a valuable service if allowed to participate in State or local political activities. This would encompass a vast majority of the mayors, 94 percent of the city councils, and virtually all of the county commissioners and school boards in the Nation. The amendment before us would allow the Federal employee more freedom of participation on the appropriate levels, and still permit him to maintain his impartiality on his job performance.

Mr. President, I think the amendment offered by the distinguished senior Senator from Hawaii strikes at the heart of the matter. It guarantees that we will carry on the Nation's public services in the tradition established under the provisions of the existing Hatch Act, so that we can have impartiality in the delivering of governmental services. It also broadens the act so that Federal officials can provide the kind of service for which they are very well qualified in carrying out their citizenship responsibilities at the local and State level.

Therefore, Mr. President, I urge adoption of the amendment offered by the Senator from Hawaii.

I thank the Senator for yielding.

Mr. FONG. Mr. President, I thank the distinguished Senator from Maryland for his very fine statement.

Mr. President, I ask unanimous consent that the Senator from Kansas (Mr. PEARSON) be added as a cosponsor to this amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

The question is on agreeing to the amendment.

Mr. FONG. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BEALL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BEALL. Mr. President, I ask unanimous consent that I might be made a cosponsor of the Fong amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BEALL. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. HATFIELD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. CULVER). Without objection, it is so ordered.

Mr. McGEE. Mr. President, this is the so-called Fisher amendment, defeated when it was considered in the committee as it was in the House of Representatives. The purpose of the amendment is to restrict Federal employees from engaging in political activity, including becoming a candidate, involving an office of the Federal Government. It also restricts their candidacy to elections to fill part-time State or local office or nonpartisan office.

The amendment would vitiate the bill. It would say, yes, Federal employees can exercise their rights as citizens, so long as they restrict that exercise to State and local affairs. As a practical matter, where there is an election involving candidates for Federal, State, and local offices, it would be a different matter. A Federal employee could not, for instance, hand out a sample ballot pertaining to such an election. It would fragment the regulation of the entire law, raising doubts in every interested employee's mind. Are we to say that Federal employees can enjoy the full rights of participation as citizens of the several States, but not the United States? I think not.

As for becoming a candidate for, say, a seat in Congress, that would be barred by this amendment. The bill as it stands makes that surpassingly unlikely because of the lengthy leave-without-pay requirement, which the committee considers proper.

Mr. FONG. Mr. President, we are ready to vote.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Hawaii. The yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Indiana (Mr. BAYH), the Senator from Massachusetts (Mr. EASTLAND), the Senator from Hawaii (Mr. INOUYE), and the Senator from California (Mr. TUNNEY) are necessarily absent.

Mr. GRIFFIN. I announce that the Senator from Arizona (Mr. GOLDWATER), the Senator from Idaho (Mr. MCCLURE), the Senator from Oregon (Mr. PACKWOOD), the Senator from Delaware (Mr. ROTH), and the Senator from Vermont (Mr. STAFFORD) are necessarily absent.

The result was announced—yeas 31, nays 60, as follows:

[Rollcall Vote No. 58 Leg.]

YEAS—31

Baker	Domenici	McClellan
Bartlett	Fannin	Pearson
Beall	Fong	Pell
Bellmon	Garn	Percy
Biden	Griffin	Ribicoff
Brock	Hansen	Scott, Hugh
Buckley	Hatfield	Taft
Byrd, Harry F., Jr.	Helms	Thurmond
Curtis	Hruska	Tower
Dole	Laxalt	Young
	Mathias	

NAYS—60

Abourezk	Hartke	Moss
Allen	Haskell	Muskie
Bentsen	Hathaway	Nelson
Brooke	Hollings	Nunn
Bumpers	Huddleston	Pastore
Burdick	Humphrey	Proxmire
Byrd, Robert C.	Jackson	Randolph
Cannon	Javits	Schweiker
Case	Johnston	Scott, William L.
Chiles	Kennedy	Sparkman
Church	Leahy	Stennis
Clark	Long	Stevens
Cranston	Magnuson	Stevenson
Culver	Mansfield	Stone
Durkin	McGee	Symington
Eagleton	McGovern	Talmadge
Ford	McIntyre	Weicker
Glenn	Metcalf	Williams
Gravel	Mondale	
Hart, Gary	Montoya	
Hart, Philip A.	Morgan	

NOT VOTING—9

Bayh	Inouye	Roth
Eastland	McClure	Stafford
Goldwater	Packwood	Tunney

So Mr. FONG's amendment (No. 1410) was rejected.

Mr. McGEE. Mr. President, I move to reconsider the vote by which the amendment was rejected.

Mr. ROBERT C. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 1354

Mr. McGEE. Mr. President, we have had consultation on this. By agreement, I call up Senator HATHAWAY's amendment No. 1354. We are prepared to accept the amendment, and there is no opposition to it.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Maine (Mr. HATHAWAY) proposes an amendment No. 1354.

The amendment is as follows:

On page 8, strike out lines 6 through 23 and insert in lieu thereof the following:

"(2)(A) Any employee who is a candidate for elective office shall be placed on leave without pay effective beginning on the day following the date on which the employee became a candidate for elective office. Such leave shall terminate on the day following the final election or the day following the date on which the employee is no longer a candidate for elective office, whichever first occurs, unless the employee is otherwise on leave.

"(B) Any employee who is elected to elective office in the final election shall be removed from employment effective upon termination of any leave due such employee.

"(C) The Civil Service Commission shall, upon application, exempt from the application of this paragraph any employee who is a candidate for or elected to any part-time elective office.".

On page 20, line 25, strike out "60" and insert in lieu thereof "120".

Mr. HATHAWAY. Mr. President, I am in favor of removing some of the restrictions contained in the Hatch Act which limit the ability of our Federal emyployees and postal workers to participate more fully in public and political life. At the same time however, we have to be very careful that civil service does not revert to the spoils system. Our primary consideration ought to be to preserve the merit system and to allow political participation only to the extent that such participation does not conflict with the merit system. It is of critical importance that our public servants continue to serve all of the people, regardless of their political affiliation or willingness to support particular candidates.

In this regard the Hatch Act has played a valuable role in removing civil service from political patronage. As has been pointed out by other speakers, the Hatch Act was enacted in 1939 in response to incidents of political corruption in the awarding of jobs in the Works Progress Administration. Strong measures were seen to be necessary at that time. Congress then decided to prohibit all Federal workers from running any partisan political office, from working for any political candidates, and from making or receiving political contributions.

Since 1939 some of these prohibitions have been modified. It is now possible for Federal employees to participate in political activities if they reside in localities where a majority of voters are employed by the Federal Government. It is now time, I believe, to remove some other restrictions and to allow Federal employees to participate in political life to the extent that such participation does not rise to the level of a conflict of interest with their overriding duty to be fair to all the citizens they serve.

The legislation before us today goes a long way toward effectuating this balance. It allows Federal employees to engage in political activities during their off hours away from the work premises. It allows employees to give and solicit Federal campaign contributions, but prohibits superiors from soliciting contributions from their subordinates and likewise prohibits subordinates from making contributions to their superiors. Any violations of this structure shall be considered by the Board on Political Activities of Federal Employees, to be created under this legislation. This Board is authorized to punish violators with removal from civil service, suspension without pay, or such other penalties as it deems appropriate. This legislation also makes it a Federal crime to obtain through threats of physical violence, or economic sanctions, any political contributions from Federal employees. Those found guilty of this crime are to be imprisoned not less than 2 nor more than 3 years or fined up to $5,000, or both. I believe this structure, with enforcement of basic violations by the Board and ultimately backed by strong criminal penalties, will allow Federal employees to enjoy their political rights and at the same time be free from any political coercion in the pursuit of their official duties.

There is, however, one aspect of this legislation which disturbs me a great deal and which I believe requires amendment lest its positive aspects be subverted. This aspect is the procedure governing the treatment of Federal employees who are candidates for full-time political office. Under the House passed bill, an employee who is a candidate for any political office is to be granted leave without pay at his request. Furthermore such an employee who is a candidate for full-time political office is required to go on leave without pay 90 days before any election, whether primary, general, or special. This mandatory leave is to terminate on the day following the day of such election, or when the employee determines he is no longer a candidate, whichever occurs first, unless the employee is otherwise on leave.

The House bill exempts candidates for part-time elective office. The Civil Service Commission is to determine which elective offices ought to be considered full time and which part time for purposes of this mandatory leave requirement.

I believe that Federal employees who wish to run for part-time political office ought to be permitted to do so. They ought to be allowed to devote their off hours to such civic duties as serving on local school boards, city and town councils, and other part-time offices. I believe the House bill takes the right approach in exempting such activities from the mandatory leave requirement. The decision of what constitutes part-time office and what ought to be considered full-time office is appropriately left to the Civil Service Commission. In making this determination I would hope the Commission would consider the degree which such offices would impinge upon the employee's primary duty to serve all of the public impartially during working hours.

I am however, unsatisfied with the approach which the legislation as currently drafted takes toward Federal employees and postal workers who wish to be candidates for full-time political office. My amendment is designed to modify this approach to insure that it is not possible for an individual to continue to be on the Federal payroll in the civil service at the same time he is a candidate for full-time political office.

The House passed bill in requiring candidates for full-time office to go on leave without pay 90 days before an election is certainly a step in the right direction. But many, if not most candidate for full-time offices begin their active campaigns long before the election is 3 months away.

Furthermore, in structuring the mandatory leave mechanism to trigger 90 days prior to any election, whether primary general or special, and terminating such leave on the day following such election, this legislation as currently drafted would allow a Federal employee who is a candidate for full-time office to go on and off leave before and after each such election.

To illustrate the manner in which this mechanism would work, I would like to pose the example of a Federal employee in the State of Maine who decides to run for full-time political office. He or she might begin the campaign in earnest in January or February. Since the primary election is on June 8 this year this candidate would not be required to go on leave without pay until March 10 under the 90-day rule. On June 9, the day after the primary election, regardless of whether that individual won or lost the primary, he could go back to work for the Federal Government. The winner of a primary election for a full-time office, the nominee of his party, could go back on the job from June 9 until July 5 at which time mandatory leave would again be triggered under the 90-day rule, since the general election would occur on November 2. The legislation as currently drafted would similarly allow the victor in the general election to return to work in a Federal job on November 3. The individual so treated would be completely within the law to collect his salary and perform his job until the time arrived to be sworn into his full-time office. In the cases of U.S. Senators and Congressmen this would occur on January 3, 1977.

This scenario is indeed disturbing, and it is difficult to believe that Congress would knowingly allow this to occur. Hu-

man nature would indicate that such an individual would not be totally devoted to his job as election drew nearer, or in the case of a successful candidate, as his swearing in drew close.

Another, more serious, problem from this set of facts would be the manner in which the general public would react to this individual as he becomes more involved in the electoral process. Those whose political philosophy differed from that of the employee-candidate might find it increasingly difficult as the election drew near to deal with this individual on an objective basis. Further those who favored his candidacy might be reluctant to press for services they had grown to expect. This dual status of candidate and employee poses its most serious problems in those situations where the employee-candidate would have substantial dealings with the private sector, if for example, he were employed by one of the various regulatory agencies.

The simplest way to avoid all of these problems would be to eliminate the 90-day rule and instead to trigger the mandatory leave without pay for candidates for full-time office as soon as the individual attained candidate status. As defined in this legislation, a candidate is any individual who has taken action to qualify for nomination for election or election, or has received political contributions or made expenditures, directly or indirectly, with a view to bringing about such individuals nomination or election.

My amendment would make this change in the proposed legislation and would thereby avoid the scenario for potential conflicts of interest which I have just described. In removing the 90-day rule it would no longer be possible for candidates to go on and off leave as the days of the calendar ticked off. Rather, leave without pay would be mandatory on the day following the day on which candidate status is obtained and would continue so long as that individual maintained such status. If he withdrew or lost an election he could go back to work.

But as long as he remained a candidate he would remain off the job and off the Federal payroll. Further, if he were victorious in the final election he would, under my amendment, be removed from employment.

In my amendment as in the reported version of this bill it is permissible for an employee-candidate to utilize such leave as might otheriwse be coming to him, without regard to the mandatory leave, but such leave will only be granted subsequent to the running of the mandatory leave in order to insure that the candidate-employee may not enjoy sick leave or vacation leave with pay at the same time he is required under these provisions to be on leave without pay.

Finally, I propose to amend the provisions of his legislation relating to educational programs to be conducted by the Civil Service Commission to inform Federal employees of their rights and duties under this legislation. The reported version of this bill requires the Commission to provide employees with this information not later than 60 days before the earliest primary or general election in the State involved. I propose to amend this to require this information be supplied 120 days before this time. Those employees who are inclined to become involved in the political process ought to be informed of their rights and duties on a timely basis in order to plan their activities accordingly. It would indeed be unfortunate if an employee were to be found guilty of violating any of the provisions of this legislation solely due to lack of knowledge of its provisions.

Mr. McGEE. Mr. President, the purpose of this amendment is to extend the clause in the pending measure for which a potential candidate for office would be required to do more than take a 90-day leave of absence. He would take a leave of absence the moment his candidacy became official, or the 90 days, which ever came first.

Both sides agree that this is without objection.

I move its adoption.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Maine.

The amendment was agreed to.

AMENDMENT NO. 1409

Mr. FONG. Mr. President, I call up my amendment No. 1409 and ask that it be laid before the Senate.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Hawaii (Mr. FONG) proposes an amendment No. 1409.

Mr. FONG. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 7, line 6, strike out "or".

On page 7, line 8, strike out the period and insert in lieu thereof a comma and "or".

On page 7, between lines 8 and 9, insert the following:

"(4) (A) at any time, if such employe, in the discharge of his official duties, has such contact with the public as to become a public figure identified with the formulation, prescription, implementation, or interpretation of any policy of the Government, or is an employee of the Department of Justice, the Internal Revenue Service, the Central Intelligence Agency, the National Security Agency, or the Defense Intelligence Agency, except that such employee may voluntarily make a political contribution of money to a candidate for elective office in accordance with the provisions of section 7324 of this title.

"(B) The provisions of subparagraph (A) of this paragraph do not apply to any officer or employee appointed by the President, by and with the advice and consent of the Senate.".

Mr. FONG. I shall explain the amendment.

First, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistance legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

TIME-LIMITATION AGREEMENT—AMENDMENT NO. 1409

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that there be a time limitation on the pending amendment by Mr. FONG, with the understanding that the time will not start running tonight, of 1 hour to be equally divided between Mr. FONG and Mr. MCGEE.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER TO CALL UP AMENDMENT NO. 1434 AND TIME-LIMITATION AGREEMENT THEREON

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that upon the disposition of the amendment by Mr. FONG tomorrow the amendment by Mr. NELSON, No. 1434, be called up and that there be a time limitation on that amendment of 1 hour to be equally divided in accordance with the usual form.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDITIONAL STATEMENTS SUBMITTED ON H.R. 8617

Mr. FANNIN. Mr. President, it is amazing how much our country has changed and how little our Government has changed during the past four decades.

This was demonstrated graphically to me recently when a constituent sent to me a copy of a Social Security Board pamphlet which was printed some 40 years ago at the outset of the social security program.

This pamphlet carries on about how much the benefits will be and how little the taxes will be. At one point the pamphlet says that the maximum tax will be 3 cents per dollar up to $3,000 income—a total of $90 per year. Then, the pamphlet says:

That is the most you will ever pay.

It also states:

What you get from the Government plan will always be more than you have paid in taxes and usually more than you can get for yourself by putting away the same amount of money each week in some other way.

Mr. President, perhaps this pamphlet should be required reading for every politician. Certainly it should be required reading for every citizen so that the people will be acutely aware of the great gulf between what Government promises and what it can deliver when we talk about social programs. One of the great tragedies is the fact that too many Americans over the years have been misled by ambitious politicians to believe that social security is a program which provides for a comfortable retirement.

Mr. President, I ask unanimous consent that this brief pamphlet be printed in the RECORD.

There being no objection, the pamphlet was ordered to be printed in the RECORD, as follows:

SECURITY IN YOUR OLD AGE

(Social Security Board, Washington, D.C.)

To employees of industrial and business establishments, factories, shops, mines, mills, stores, offices, and other places of business

Beginning November 24, 1936, the United States Government will set up a Social Security account for you, if you are eligible. To understand your obligations, rights, and benefits you should read the following general explanation.

There is now a law in this country which will give about 26 million working people something to live on when they are old and have stopped working. This law, which gives other benefits, too, was passed last year by Congress and is called the Social Security Act.

Under this law the United States Government will send checks every month to retired workers, both men and women, after they have passed their 65th birthday and have met a few simple requirements of the law.

WHAT THIS MEANS TO YOU

This means that if you work in some factory, shop, mine, mill, store, office, or almost any other kind of business or industry, you will be earning benefits that will come to you later on. From the time you are 65 years old, or more, and stop working, you will get a Government check every month of your life, if you have worked some time (one day or more) in each of any 5 years after 1936, and have earned during that time a total of $2,000 or more.

The checks will come to you as a right. You will get them regardless of the amount of property or income you may have. They are what the law calls "Old-Age Benefits" under the Social Security Act. If you prefer to keep on working after you are 65, the monthly checks from the Government will begin coming to you whenever you decide to retire.

THE AMOUNT OF YOUR CHECKS

How much you will get when you are 65 years old will depend entirely on how much you earn in wages from your industrial or business employment between January 1, 1937, and your 65th birthday. A man or woman who gets good wages and has a steady job most of his or her life can get as much as $85 a month for life after age 65. The least you can get in monthly benefits, if you come under the law at all, is $10 a month.

If you are now young

Suppose you are making $25 a week and are young enough now to go on working for 40 years. If you make an average of $25 a week for 52 weeks in each year, your check when you are 65 years old will be $53 a month for the rest of your life. If you make $50 a week, you will get $74.50 a month for the rest of your life after age 65.

If you are now middle-aged

But suppose you are about 55 years old now and have 10 years to work before you are 65. Suppose you make only $15 a week on the average. When you stop work at age 65 you will get a check for $19 each month for the rest of your life. If you make $25 a week for 11 years, you will get a little over $23 a month from the Government as long as you live after your 65th birthday.

If you should die before age 65

If you should die before you begin to get your monthly checks, your family will get a payment in cash, amouting to 3½ cents on every dollar of wages you have earned after 1936. If, for example, you should die at age 64, and if you had earned $25 a week for 10 years before that time, your family would receive $455. On the other hand, if you have not worked enough to get the regular monthly checks by the time you are 65, you will get a lump sum, or if you should die your family or estate would get a lump sum. The amount of this, too, will be 3½ cents on every dollar of wages you earn after 1936.

TAXES

The same law that provides these old-age benefits for you and other workers, sets up certain new taxes to be paid to the United States Government. These taxes are collected by the Bureau of Internal Revenue of the U.S. Treasury Department, and inquiries concerning them should be addressed to that bureau. The law also creates an "Old-Age Reserve Account" in the United States Treasury, and Congress is authorized to put into this reserve account each year enough money to provide for the monthly payments you and other workers are to receive when you are 65.

Your part of the tax

The taxes called for in this law will be paid both by your employer and by you. For the next 3 years you will pay maybe 15 cents a week, maybe 25 cents a week, maybe 30 cents or more, according to what you earn. That is to say, during the next 3 years, beginning January 1, 1937, you will pay 1 cent for every dollar you earn, and at the same time your employer will pay 1 cent for every dollar you earn, up to $3,000 a year. Twenty-six million other workers and their employers will be paying at the same time.

After the first 3 years—that is to say, beginning in 1940—you will pay, and your employer will pay, 1½ cents for each dollar you earn, up to $3,000 a year. This will be the tax for 3 years, and then, beginning in 1943, you will pay 2 cents, and so will your employer, for every dollar you earn for the next 3 years. After that, you and your employer will each pay half a cent more for 3 years, and finally, beginning in 1949, twelve years from now, you and your employer will each pay 3 cents on each dollar you earn, up to $3,000 a year. That is the most you will ever pay.

Your employer's part of the tax

The Government will collect both of these taxes from your employer. Your part of the tax will be taken out of your pay. The Government will collect from your employer an equal amount out of his own funds.

This will go on just the same if you go to work for another employer, so long as you work in a factory, shop, mine, mill, office, store, or other such place of business. (Wages earned in employment as farm workers, domestic workers in private homes, Government workers, and on a few other kinds of jobs are not subject to this tax.)

Old-Age Reserve account

Meanwhile, the Old-Age Reserve fund in the United States Treasury is drawing interest, and the Government guarantees it will never earn less than 3 percent. This means that 3 cents will be added to every dollar in the fund each year.

Maybe your employer has an old-age pension plan for his employees. If so, the Government's old-age benefit plan will not have to interfere with that. The employer can fit his plan into the Government plan.

What you get from the Government plan will always be more than you have paid in taxes and usually more than you can get for yourself by putting away the same amount of money each week in some other way.

NOTE.—"Wages" and "employment" wherever used in the foregoing mean wages and employment as defined in the Social Security Act.

Mr. HRUSKA. Mr. President, I rise to express strong opposition to H.R. 8617 in the form recommended by the Committee on Post Office and Civil Service and to associate myself with the well-stated minority views of the distinguished senior Senators from Hawaii and Oklahoma.

As reported, H.R. 8617 would not reform the Hatch Act. It would largely repeal it.

I concede that some clarification of the Hatch Act's current provisions may be in order. These are clearly within the capacity of the Civil Service Commission and, to the extent actually necessary, the legislative powers of the Congress and the judicial powers of the Federal courts. It is not my impression, however, that legions of Federal employees are anguishing over what is permissible political activity under current law. On the other hand, there are some employees at any time who do have legitimate questions about proper political behavior under the law. In fact, I know of few Federal laws and regulations attempting to regulate political behavior which do not raise continuing questions and require rather frequent clarification. We need only look to our recent experience with the Federal campaign financing laws of 1974.

But, to proceed, as do the proponents of H.R. 8617, to eliminate the Hatch Act distinctions between prohibited and permissible activities, and to enumerate only what is prohibited, opens the door to the most far-reaching changes in the political behavior and exposure of Federal civil servants and their appointed superiors. Should this bill be enacted into law, whatever is not prohibited will be permissible.

The bill would specifically prohibit Federal employees from the following activities. It is difficult to disagree in principle with these prohibitions, as far as they go:

Using or attempting to use directly or indirectly official authority or influence to interfere with or affect the result of any election; to intimidate, threaten, coerce, command or influence an individual to vote or not to vote in any election, to give or withhold any political contribution, or to engage in any form of political activity whether or not prohibited by law.

Giving or offering a political contribution to any individual either to vote or not to vote, or to vote for or against any candidate or measure in any election.

Soliciting, accepting, or receiving a political contribution to vote or not to vote, or to vote for or against any candidate or measure.

Knowingly giving or handing over a political contribution to a superior.

Knowingly soliciting, accepting or receiving a political contribution from a subordinate or in any room or building used for official duties of a U.S. Government employee or office-holder.

Engaging in political activity while on duty, while wearing uniform or official insignia, or in any room or building used for official Government duties.

What must be stressed to the American people, who have vital stakes in a politically responsible administration and a politically neutral civil service, is what H.R. 8617 would permit once Federal employees have complied with its specific prohibitions. The following activities, now prohibited by the Hatch Act, would be permissible under H.R. 8617:

Taking an active part in political management or in a political campaign of a

partisan candidate for public office or political party office;

Serving as an officer of a political party, a member of a national, State, or local committee of a political party, or an officer or member of a committee of a partisan political club, or being a candidate for any of these positions, or organizing or reorganizing a political party organization or club;

Directly or indirectly soliciting, receiving, collecting, handling, disbursing or accounting for assessments, contributions or other funds for a political organization;

Organizing, selling tickets to, promoting or actively participating in a fundraising activity of a partisan candidate, political party, or club;

Becoming a partisan candidate for or campaigning for elective public office;

Soliciting votes in support of or in opposition to a partisan candidate for public office or political party office;

Acting as recorder, watcher, challenger, or similar officer at the polls on behalf of a political party or partisan candidate; driving voters to the polls on behalf of a political party or partisan candidate;

Endorsing or opposing a partisan candidate for public office or political party office in a political advertisement, a broadcast, campaign literature or similar material;

Addressing a convention, caucus, rally or similar gathering of a political party in support of or in opposition to a partisan candidate for public or political party office;

Serving as a delegate, alternate or proxy to a political party convention;

Initiating or circulating a partisan nominating petition.

Mr. President, my distinguished colleagues who oppose this bill have been joined by spokesmen for Federal employees who share their concerns, and by commentators in the press and media who have no illusions about the broad thrust of H.R. 8617, in pointing out the dangers it portends. I will note only briefly some of these dangers because I wish to base my opposition mainly on what I consider overriding constitutional questions:

The specter of employees with investigative responsibilities and access to information regarding the private lives of citizens, using their posiitons to exert political pressure.

The increasing vulnerability of Federal employees to solicitations for political contributions as a result of working in settings where they would be exposed to politically active superiors and coworkers.

Increasing suspicions among appointed officials that they were not receiving politically neutral recommendations from career officials who would, depending on circumstances, be inclined to curry political favor with or score political points against the administration in power.

Increasing numbers of Federal employees campaigning for office, or participating actively in managing campaigns, while attempting to render fair service to the taxpayers in their civil service positions.

Furthermore, Mr. President, we must ask whether increasing the level of political activity within the Federal service will tend eventually to build within the Federal Establishment the kinds of employee pressures which have contributed in no small way to the financial difficulties facing New York City and other municipalities.

The leaders of major Government employee unions and of organized labor have campaigned aggressively for passage of this bill. That is their right. But I question whether their concern is principally for the political liberties of the individual Federal employee, or for expanding the political power and influence and political fund raising capabilities of their organizations, in and through the public service.

Perhaps they would answer that there is no conflict—that there is an inseparable relationship between the political rights of the employee and his ability to exercise those rights in or through legitimate employee organizations. If so, I would further question whether H.R. 8617 will propel us rapidly down uncharted paths in the relations between politically active Federal employees on the one hand and Federal employee organizations functioning as labor unions on the other. I believe the bill would have that result and fear that neither the Congress nor the American people are alert to the possibility and prepared to cope with it.

These considerations pale in the long view, Mr. President, against basic constitutional questions which must be addressed.

Both those for and against this bill must ultimately rest their case on the first amendment to the Constitulon and its guarantees of free speech, assembly and petition for redress of grievances. That is the ground on which the Federal courts will stand.

A sound analysis of the first amendment implications underlying Hatch Act reform recently has been made by John R. Bolton in "The Hatch Act, A Civil Libertarian Defense," published by the American Enterprise Institute. I commend this study to my colleagues who, weary of much of the current rhetoric about the pros and cons of H.R. 8617, may wish to examine the issues in objective and constitutional terms.

Mr. Bolton's purpose in large part is to examine the first amendment values supporting restraints on the partisan activities of Federal employees. The substance of his thesis is that—

Government workers have a right to be free from political coercion—particularly from any systematic solicitation by either their superiors or their co-workers. Since the power to coerce derives in substantial amount from power vested in the government, the Hatch Act is, in effect, a case of the government restraining itself. Non-governmental employees have similar First Amendment rights—the right not to have their freedom to engage in political activity "chilled" by political activities who also administer government programs and regulatory or law-enforcement agencies.

On the question of employee coercion he comments:

It is with some uncertainty we can conclude that with respect to preventing the coercion of federal workers, the act as currently written is more desirable than a reform moving in the direction of H.R. 8617. Nevertheless, against a demonstrated historical background of employee coercion, and with the use of public employee unions that represent a potential source of pressure on the individual employee at least as great as that represented by his supervisor, caution in the effective repeal of a statute that has functioned at least adequately is warranted. Such caution is especially justified because the First Amendment rights against coerced political activity of numerous government workers may hang in the balance.

On the public's right to have its freedoms protected from political activists who also administer Government programs, and incidentally on the enlarged role of public employee unions, Mr. Bolton observes that—

As noted previously, when the Hatch Act was passed, large and powerful public employee unions did not exist. Now they do, and the possibilities for concerted action to influence public policy (and therefore the general public) are far greater than they were thirty-five years ago. Just as concern is properly voiced when governmental power is improperly used to coerce federal workers, so too concern is warranted when individuals subject to the government's power are restrained or pressured. The monopoly of legitimate coercive power vested in the government and the access to it by government employees warrant restraints on the government and its workers so that the state's power is not used in unintended ways.

His final conclusion expresses well my own thoughts on the measure before us:

Until someone drafts an alternative statute that fully protects both government employees and those who deal with the federal government from having their First Amendment rights to express themselves chilled, the Hatch Act, with all its deficiencies, still provides a significant measure of protection. To abandon it completely would risk not only politicizing some elements of the federal bureaucracy, but also chilling the political activities of much of the rest of the nation. A risk so inconsistent with fundamental First Amendment values should not be taken.

Mr. President, the problem before us is typical of major legislation. We must weigh the pros and cons, assess the risks. I find the risks to our political institutions, to the quality of the public service, and to our constitutional guarantees far too grave to support H.R. 8617 as reported by the Post Office and Civil Service Committee. I urge my colleagues not to support this measure unless major amendments along the lines of those proposed by my distinguished colleagues, the senior Senator from Hawaii and the junior Senator from Kansas, are adopted.

ORDER FOR ADJOURNMENT UNTIL 9:30 A.M. TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that when the Senate completes its business today it stand in adjournment until the hour of 9:30 tomorrow morning.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR THE RECOGNITION OF SENATOR EAGLETON AND SENATOR MATHIAS TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that tomorrow